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Legislative Assembly of Ontario

Standing Committee on Resources Development

Occupational Health and Safety Statute Law Amendment Act, 1989



Second Session, 34th Parliament

Monday 15 January 1990

Speaker: Honourable Hugh A. Edighoffer

Clerk of the House: Claude L. DesRosiers

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday 15 January 1990

The committee met at 1009 in committee room 1.

OCCUPATIONAL HEALTH AND SAFETY STATUTE LAW AMENDMENT ACT, 1989 (continued)

Consideration of Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

The Chair: The standing committee on resources development will come to order. This is the first day of six weeks of hearings on Bill 208, an act to amend the health and safety legislation in the province. We complete our hearings at the end of February and then report back to the Legislature with any amendments we have been able to make at that point, if any.

We have a very full agenda for the full six weeks, and in some cases there have been some problems, quite frankly, about being able to schedule as many groups as want to be heard before the committee. That has caused us some anguish, but there is a meeting of the subcommittee of this committee, at 1:30 in room 347 upstairs, to try to sort out some of those particular requests that have a lot of legitimacy to them. We simply cannot schedule everybody who wants to appear before the committee. Some things are not alterable by us. We were given that length of time by the Legislature, by the chamber itself, so we cannot alter that. We cannot just extend the hearings; that is beyond our control.

The reason I think I see so many familiar faces in the room is that a lot of them are the same players who were very active on Bill 162, and we welcome you back to these hearings. In Bill 162, we had 20 minutes for each presenter and questions, and there was a great deal of unhappiness with that time frame, both by members of the committee and by people presenting, because it simply was not long enough for people to make a presentation of any substance and have an exchange with the committee. So the committee agreed that we would have 30-minute time slots on Bill 208, and we will really try to stick to that, because if we do not, we will end up cutting somebody off at the end of the day or going later than we are prepared to sit. I will try to be quite firm about the 30

minutes so that it is fair to everyone. Sometimes we do not like to do it, but we simply must. Today is no exception; we have a full agenda.

We have on the committee as well the parliamentary assistant to the Minister of Labour, Mike Dietsch, and the parliamentary assistant to the Minister of Industry, Trade and Technology, Mr Carrothers. The corridors of power are well represented on the committee.

First on the agenda is the Canadian Federation of Independent Business. If they will take their places at the table, we can proceed with the first presentation. Welcome to the committee. If you wish to introduce yourselves, we can proceed.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

Ms Ganong: My name is Linda Ganong. I am the director of provincial affairs in Ontario for the Canadian Federation of Independent Business. On my left is Dale Botting, the vice-president for western Canada, and on my right is Brien Gray, the senior vice-president for legislative affairs.

I want to assure the committee that the 38,000 Ontario independent member firms of the Canadian Federation of Independent Business fully share and support the government of Ontario's objective to provide a safe and healthy workplace environment. The CFIB is, however, concerned that the key provisions of Bill 208 will do very little to improve the safety performance in Ontario's workplaces and indeed will frustrate the co-operation and teamwork between employers and employees that are crucial to the accomplishment of health and safety goals. CFIB is also concerned that the changes proposed by the Minister of Labour (Mr Phillips) to Bill 208 do not go far enough to rectify the bill's inherent problems.

CFIB endorses the following principles of health and safety management in the workplace.

The first is that employers and employees share a common goal of a safe and healthy workplace.

The second is that the basis of all health and safety strategies should be prevention.

The third is that the best results, especially with regard to prevention, are achieved only through strong and close partnership and teamwork between the workplace parties. Co-

operation and trust between employers and employees in pursuit of the common goal of improved health and safety are fundamental.

The fourth principle is that co-operation and trust are created through open and ongoing communication between the workplace parties on health and safety matters. Good communication in a spirit of co-operation, trust and a commonality of purpose provides the best means to find workable solutions to health and safety issues that satisfy all parties.

The fifth principle is that the maintenance, support and furtherance of a strong internal responsibility system operating in a nonadversarial context is a key factor in creating improved workplace health and safety.

Finally, the sixth principle is that occupational health and safety efforts are most effective when they are focused on awareness, education and training.

Although it is widely believed that small businesses have limited means for ensuring health and safety in their workplaces, a 1988 CFIB provincial survey of approximately 5,000 Ontario members asking about their health and safety practices found that the most frequently chosen health and safety practices were in-house safety courses, outside health and safety courses, setting up a health and safety committee and installing new equipment.

In four of the five traditionally higher-risk sectors, in-house safety courses were the most frequently pursued practices, with the number of members opting for this choice ranging from more than 50 per cent to nearly six in 10. In the fifth higher-risk sector, in-house courses and setting up a health and safety committee were tied for first place. So small firms do institute practices to improve the health and safety in their workplaces.

CFIB members also supported giving employees the legal right to refuse work they consider unsafe as early as February 1977, which was two full years before the right to refuse was enshrined in Ontario's legislation. In 1979, the year the legislation was passed, a CFIB provincial survey of Ontario members found that fully 75 per cent of members across all sectors supported the right of employees to refuse work they consider unsafe, without fear of retaliation from their employers.

The myth of the small firm as a health and safety problem is unfair and without foundation. Small firm owners care about safety. They take effective action on it. They take pride in their safety records and support their employees'

individual right to refuse unsafe work. They realize that there are economic reasons as well as humane ones to promote health and safety. In a tight labour market, a skilled employee is a valued resource who commands protection.

The proposed Workplace Health and Safety Agency has one fundamental flaw that puts it at odds with the first principle of health and safety management: the allocation of all employee seats on the agency's board to representatives of the labour union movement. By this move, about 70 per cent of the workforce, which has legitimately chosen not to be represented by the unions, would be effectively disfranchised.

Given that small firms represent the majority of firms in the province and have a well-documented and important role to play in the Ontario economy, the lack of dedicated seats on the employer side for small business is also an oversight badly in need of corrective action. CFIB recommends that no fewer than 40 per cent of the employer representatives should come from the small business sector. The small business advisory committee proposal smacks of tokenism and should be rejected out of hand.

The Minister of Labour's proposed changes, which would add a neutral chair and four technical members to the agency board, are praiseworthy, and CFIB supports them. However, some clarification of the appointment process and the status of these proposed members is needed. CFIB supports the appointment of the chair on the Ministry of Labour's recommendation alone. We think it is important that the chair be completely neutral and be accountable to the Ministry of Labour, the government of Ontario and the people of Ontario.

The technical members should be voting members. It is important that the professional expertise and the technical knowledge that they bring be represented in the decision-making process of the agency.

Bill 208 proposes that the agency undertake just a wealth of functions: regulatory, disciplinary, advisory, administrative, program development, program delivery, standard setting, financial, educational and operational activities. CFIB can see no logical justification for having the agency perform this wide collection of roles. The function of the agency as an accreditation body for health and safety training courses, setting the standards for health and safety training courses in the province, is a helpful and workable solution that can play a major role in developing and fostering a health and safety culture in workplaces in the province. We recommend that the

other roles be removed from the agency's ambit and that the agency focus on the important role of standard setting for health and safety courses.

Certified health and safety representatives' priority should be to consider the training and education needs in their individual workplaces and to assist in the development of a co-operative relationship between the parties in order to best assess and address their workplaces' health and safety issues. CFIB believes it is inappropriate for certified representatives to function as enforcers or regulators.

The Chair: I wonder if I could just stop you for a moment.

Ms Ganong: Certainly.

The Chair: For the information of people standing, we are having more chairs brought up. We hope to be able to get everyone seated in a couple of minutes.

Ms Ganong: The certified representatives should not be enforcing or regulating, because enforcement and regulation are the central responsibility of government. The government cannot offload its responsibilities on to the shoulders of nongovernmental agencies which are not subject to either financial or political scrutiny in the Legislature or, ultimately, to the public. Both employees and owners of small firms feel much closer to and repose much more trust in their democratically elected MPPs than with the boards of a proliferating number of nongovernmental, nonaccountable agencies and advisory bodies. We feel very strongly that the enforcement function should continue to reside in the audit and investigation unit of the Ministry of Labour.

CFIB is supportive of the minister's proposal to have employee representation on the boards of the safety associations. We feel, though, that there is no need to have the agency involve itself directly in the operations of the safety associations. Also, the two-year timetable which the minister has proposed in his changes to this committee is still too short for the evolution of the safety associations. We recommend that no arbitrary timetable be set, but that the Ministry of Labour keep a monitoring eye on the progress of the safety associations towards this goal. It is important that the associations take the time they need to get the best people on their boards.

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CFIB is relentlessly opposed to the unilateral power to stop work. Unilateralism is completely contrary to the first principles of health and safety management. It will corrode the trust between

employers and employees, which is essential to the achievement of health and safety goals. It will seriously impair the functioning of the internal responsibility system. It is the antithesis of co-operative health and safety partnership. It goes against the concepts of teamwork, partnership and co-operation which the minister has reiterated over and over again are important in health and safety.

CFIB remains convinced that the individual's right to refuse unsafe work without fear of unfair retaliation from the employer is an effective and appropriate tool to protect employees in situations of immediate and pressing danger where the risk of serious traumatic injury is great. To the extent that employees are inadequately informed about their right to refuse unsafe work, CFIB supports an increased effort on the part of the ministry and the safety associations to educate employees on these rights.

If there is to be a power to enforce safe practices beyond the individual right to refuse, it must operate through a process which adheres to the first principles of health and safety management and which continues to foster co-operative partnership and teamwork. Such a process would require the workplace parties to co-operate and consult. It would be a staged process, with opportunities to find workplace solutions available at each stage. Most important, it would encourage problem resolution rather than the allocation of blame. It would focus on rewarding good performance rather than penalizing those who, despite their best efforts, are still in need of assistance to make the health and safety grade.

CFIB recognizes the legitimacy of concerns about unsafe work activity and supports extending the employee's individual right to refuse to cover unsafe work activities. It should be possible to develop professional, scientific standards for safe and unsafe work activities which would then be used to objectively ascertain whether a particular activity could be considered unsafe and trigger the employee's individual right to refuse.

In small firms, the lines of distinction between employer and employee can be very blurred, especially where the employees are friends and family members of the employer and where the employer works alongside the employees right on the shop floor. A rigid and formalized voting process to select a health and safety representative in such cases will only polarize the parties unnecessarily. A more effective solution would be to allow for a nonadversarial process whereby

the firm designates a health and safety representative.

Our brief also draws attention to several technical issues raised by the bill, the disposition of which I will deal with in the recommendations section.

Workplace health and safety is an issue of paramount importance to all affected parties and indeed to all Ontarians. Amendments to the occupational health and safety legislation ought to be aimed at bringing the workplace parties closer together in a spirit of co-operative partnership to solve their health and safety problems through a focus on education and training. Bill 208, as drafted, and the minister's proposed changes to Bill 208 do little to meet the admirable objectives of the minister, the government and the workplace parties.

We believe the following recommendations will bring the substance of the bill back into line with its principles and intent:

1. The Ministry of Labour, in consultation with all affected parties, have the ultimate responsibility for policy formulation and enforcement of labour policy in the province of Ontario.

2. One half of the employee representatives on the proposed Workplace Health and Safety Agency should be drawn from the nonunionized sector and one half from the unionized sector. Representatives from the unionized sector should also be drawn in a balanced way, some from the Ontario Federation of Labour, some from the Ontario branch of the Canadian Federation of Labour and some from other unions independent of the OFL.

3. No fewer than 40 per cent of the employer representatives should be from the small business sector. The small business advisory committee proposal smacks of tokenism and should be rejected out of hand.

4. A neutral chair and four professional members should be added to the agency's board. The professional members should be voting members. The chair should be appointed by the government independently and should vote only to break a tie.

5. The agency's function should be to accredit training courses offered through safety associations, colleges of applied arts and technology, in-house employer programs and other existing bodies. Accredited training courses would carry certification privileges. Credited training courses would need to be up to the standard set by the agency.

6. The existing health and safety associations, colleges of applied arts and technology and other existing organizations would be responsible for doing the actual training and certification of employees.

7. Certified representatives should not have enforcement responsibilities; rather, their priority should be to consider the training and education needs in their individual workplace and assist in the development of a co-operative relationship between the workplace parties.

8. The operations of safety associations should continue to be directed by their boards without interference from the agency. Associations should introduce employee representatives on to their boards. The associations should not be constrained by artificial timetables in their efforts to staff their boards with the best people. No arbitrary timetable for this move should be set, but the Ministry of Labour should keep a monitoring eye on the associations' progress towards this goal.

9. The unilateral power to stop work is not in accordance with the co-operative teamwork approach exemplified by the internal responsibility system and it should be completely rejected.

10. Joint decision-making, in accordance with the internal responsibility system, should be the rule in cases of workplace hazards, including decisions to stop work. If the certified representatives fail to agree after consultation, the exercise of the individual right to refuse can protect employees while waiting for a Ministry of Labour inspector to arrive.

11. In the small minority of cases where extraordinary measures are appropriate, a process should be in place to render extra assistance through consultants or inspectors, perhaps stationed in the workplace at the employer's expense, to those employers who warrant it, without blame or stigma being attached thereto.

12. The individual right to refuse work should be extended to cover unsafe work activities, but objective standards of what constitutes unsafe work need to be articulated, and for greater clarity and certainty, the parameters of the right must be embedded in the legislation itself.

13. We note that mandatory elections in small firms may create unwanted side effects; instead, a nonadversarial process should be permitted whereby the firm designates a health and safety representative.

The next four are the technical issues that I referred to earlier:

14. The legislative anomaly that mandates employers to set up medical surveillance pro-

grams yet deprives them of an important tool needed to run the program, employee consent to participation in the program, needs correction.

15. The requirement to make floor plans available to employees may not always be necessary or practical and which has the potential to breach industrial confidentiality and threaten firm security. We recommend that this section be amended to provide that floor plans need only be provided as prescribed by the ministry.

16. The language of the statements required by professional engineers on the suitability of tested equipment should be adjusted to accord with what engineers can actually attest to.

17. Broad powers of search and seizure may be incompatible with encouraging the performance of professional safety audits and may thereby interfere with measures taken to improve safety. In addition, the ability of inspectors to retain seized items needs to be constrained.

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18. The Ministry of Labour should redirect and re-emphasize its health and safety efforts to the area of training and education for improved health and safety. The ministry should also turn its efforts towards fostering and encouraging a climate of trust, co-operation and mutual concern for health and safety among the workplace parties. Health and safety is good business and it is everybody's business.

In the interests of time, I have just very briefly touched on the points in our brief. There is much more detail included in the brief, and I hope the members of the committee will be able to peruse it.

The Chair: Thank you, Ms Ganong, for a brief that is very much to the point. Mr Mackenzie has a question for you.

Mr Mackenzie: I have a document that was forwarded to me from the Canadian Federation of Independent Business and there is on the top of it: "Urgent: Please give copy to another business person." You stressed at some length in your presentation the necessity of a nonadversarial, noncontroversial approach to the whole issue of health and safety in the workplace. Among the headings, the first heading in this particular article, which I take it your organization put out, is, "Ontario's union, health and intimidation act; a horror story in the making." Quite frankly, it gets worse from there on. Is this the kind of noncontroversial co-operative approach that you are looking for in terms of health and safety?

Mr Botting: If I may answer that, when we wrote that to our membership, we had some

concerns about the democratic representation and representativeness of the workforce, and I think that that particularly referred to that aspect. I think we want to move beyond all of that and I think that all sides in this debate have from time to time used rather strong language, shall we say. The injury statistics, which I am sure we are going to hear about a lot, I hope are not prefaced with adjectives like "murdered" because I do not believe that helps enlighten the debate either.

There is fundamentally a ubiquitous, in my view and in our view, absence of malice in most instances when it comes to the area of workplace health and safety. I think, Mr Mackenzie, you are quite right. The overall objective should be that we do not just fight. In fact, that is not what it is all about at all. It is not important to fight; what is important is that we all win. I think that should be the fundamental objective that we are all working to, and that is what we want in terms of a co-operative environment in the workplace.

Mr Mackenzie: But then you are rejecting this early three-page memo that you put out, with some of the comments that are in it.

Mr Botting: I do not know if the word is "rejection." I think what we are saying is that we have to move beyond a debate. There become different stages in the debate as there are in the legislative debates in the House—some of the language, no doubt, used in second-reading debates. We still have concerns about the agency structure and we are here today to further discuss those concerns with you, if you would like to discuss them.

Mr Mackenzie: In your recommendation 13, you say, "Instead, a nonadversarial process should be permitted whereby the firm designates a health and safety representative." What makes that fairer or nonadversarial when the firm itself is going to designate who the person is, rather than election?

Ms Ganong: There is a question of recognizing what small-firm workplaces look like. There is not really that big a distinction often in a very small firm between the employer and the employees. Oftentimes, they are all in there working together. It would be a question rather of finding the workplace health and safety representative through a consensus approach, rather than necessarily setting up a strictly polarized approach which does not really reflect that particular workplace.

Mr Mackenzie: I take it then that you reject also the arguments that the previous Minister of Labour, the member for York Centre (Mr

Sorbara), made to totally reject your arguments about who should pick the people, either as health and safety reps or the various appointees to the board.

Ms Ganong: Again, Mr Mackenzie, it is really a question of looking at the way small workplaces function. I think sometimes when we think of business, we just think of the way big businesses function. We think about General Motors or General Foods and the type of environment they are. It is really not at all representative of the small firm. In a small firm there is not that big a distinction between the workers and the employer. They are all working together for a common purpose.

Mr Mackenzie: Can you tell me of any specific programs for training workers so that they would recognize health and safety difficulties, or could exercise with some degree of authority the right to refuse if they felt it was necessary, which have been organized and conducted by your organization? It would be similar, for example, to the extensive health and safety programs that are being run now through the labour movement and which, incidentally, an awful lot of business people attend as well.

Ms Ganong: Our members tend to run training courses and do training in their own firms. On pages 4 and following of our brief we make note of the survey that we did of 5,000 Ontario members in 1988, which canvassed their existing health and safety practices and asked for their comments on workplace health and safety. We found that over 50 per cent of them, ranging up to about six in 10, had in-house safety courses. That tended to be the most predominant one. They would actually have in-house safety courses on their premises to train their workers.

There are a number of comments that we extracted from that survey where members say: "Safety comes first in the home and on the job." "We stress safety every day on each job, everybody watches everybody else to make sure there are no mistakes." "We have an excellent safety record. We as owners stress safety first...." "Safety is first and foremost in the operation of a business." "We cannot place too much importance on safety in the workplace—extremely important." "We try to train our employees personally, stressing safety at all times. We have had very few accidents in 35 years." This is just a representative sample of the comments that members, unsolicited, threw out on the floor.

Mr Mackenzie: This training is in-house training. If not, it is not independent. It is not neutral. It is not provided by an outside source.

Ms Ganong: They use outside sources as well, plus they set up health and safety committees.

Mr Botting: Of course, there are a lot of cross-linkages with the industrial safety associations. I guess the Industrial Accident Prevention Association of Ontario would be the most commonly applicable group because of the nature of our membership base, but the Construction Safety Association of Ontario, the Transportation Safety Association of Ontario and so on, quite frankly we have lobbied them quite vigorously over the last few years to enhance their training and the quality of training for small firms, to develop their stronger small-firm focus at that level.

Mr Carrothers: I wonder if I could ask you to expand a bit on your view of an internal responsibility system or how it would work. You said at the beginning of your comments that you support that, but then you also say that you feel the job of the ministry is to regulate. It would seem to me that an internal responsibility system should have some way of resolving disputes in the workplace, yet you seem to be rejecting that. Perhaps you could expand on that and explain to me a bit more, if you do not think the way the bill is presently set out works, how you would see it operating better to keep that responsibility in the workplace, allow the disputes to be resolved there and get the job done really?

Ms Ganong: We do not at all reject that premise. What we are rejecting is the offloading of government responsibilities for enforcement and overall policy development on to a nongovernmental body, but in terms of actual health and safety matters right in the workplace, very definitely it is the workplace parties who need to take responsibility for that and need to solve those problems. They need to do it together in partnership.

Mr Carrothers: But if, for some reason, as you could consider might happen, there might be a disagreement, how would that then get solved in the workplace?

Ms Ganong: If there is a disagreement, I would imagine that if the hazard were so pressing, both certified representatives would be able to agree what needed to be done, and only in the minority of cases where there is a disagreement would they need an impartial arbiter to come in and help. That is presently covered under the existing internal responsibility system.

Mr Carrothers: Maybe that is the reason we are here. There was a feeling it was not. I could

see, certainly in a clear and pressing case of danger, that there would not be any dispute. It seems to me the difficulty here lies in those ones that are in the grey area or in between. They may be, they may not be. It is not quite clear.

Again, it seems that calling in a ministry inspector every time might not work and there should be some way of getting a decision in the workplace taken, at least in the short term, not just calling in a ministry inspector. I do not see how that would really solve the problem. Do you not think that some way of causing something to happen in the workplace might be a better way to deal with it?

Ms Ganong: Absolutely, but again calling the ministry inspector would only be a decision of last resort. The vast majority of health and safety problems, we believe, can be solved on a consensus basis. It would only be where, to one party, it looked like absolute clear and pressing danger and to another party it looked differently, and then the Ministry of Labour would have to come in. In the meantime, the employees would have resort to their individual right to refuse unsafe work to protect themselves.

Mr Carrothers: Do you think that right, in all cases, works? Would the individual employees perhaps know or could they not be intimidated? It is often said that perhaps they do not feel they can, even though the law says they are protected, to exercise that right. Do you feel they could appropriately, in cases which are questionable, exercise that right without perhaps incurring some problems?

Ms Ganong: One of our recommendations is that if employees are not aware enough about their right, there should be an awareness program put forward to inform employees about their right to refuse so that they can exercise it responsibly.

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Mr Botting: It is, of course, also in section 24, as you know, under the current act, which provides for penalties for unfair retribution by virtue of application to the Ontario Labour Relations Board. But again, regarding all of those things, I think, we all have a job to do as part of the training agency, which we support in concept, to further educate about those existing rights. That was a landmark piece of legislation introduced back in 1979.

In fact, for the record, our organization supported that two years previously in 1977, the right of individual work refusal. We were clearly on record in the mid-1970s to advance that cause. What we are saying is, given that existing right,

the furtherance of that for complete workplace shutdowns is taking it too far, when really what we need to do is consolidate education of the right that already exists.

Mr Carrothers: Just one final question: You have mentioned that on the advisory board you think 40 per cent of the representatives should be from small business. I just wondered how you came up with that number.

Ms Ganong: Given that about 99 per cent of the firms in Ontario are small firms, we thought it was a conservative estimate.

Mr Carrothers: You thought it was a concession. Okay.

The Chair: We will give the final few moments to Mr Cureatz.

Mr Cureatz: I happen to be substituting for Mr Harris on the committee. I am wondering if you might advise me. Looking at the very busy agenda that this committee has, do you anticipate doing your judicious best to allocate time to various caucuses?

The Chair: Yes, I think it is only fair that we do that, especially with the presence of the Acting Speaker of the House here.

Mr Cureatz: You are very kind. Very briefly then, a point on page 3: "The myth of the small firm as 'a health and safety problem' is unfair and without foundation." I suspect with your even mentioning that, do you feel that there is a perception that small firms are in the position of being health and safety problems?

Ms Ganong: The Advisory Council on Occupational Health and Occupational Safety, which is the body that presently exists that would be abolished under Bill 208 but that now exists to advise the Ministry of Labour, has struck a task force on small business to investigate this very area. They did find there were some perceptions that small firms were more problematic and they found, despite those perceptions, there was also no evidence to back that up. There is a little quote from one of their draft memorandums, which was sent to the Ministry of Labour, which finishes up saying, "There is no clear-cut evidence that health outcomes differ with size across industry types."

Mr Cureatz: Just previous to that, on page 2, item 5, "The maintenance, support and furtherance of a strong internal responsibility system, operating in a nonadversarial context..." I was interested in Mr Mackenzie's opening remarks. In terms of the balance, the direction in which you would envision the final outcome of the legislation, do you propose that these sugges-

tions and recommendations that you are making indeed have a fair balance between employer and employee, or do you think in all fairness that your proposals are weighted in favour of the employer?

Ms Ganong: We certainly believe that they create a fair balance between employer and employee, because they do not focus on the employer's side and the employee's side; they focus on the employer and the employee working together to attack a common problem together, to work out a consensus, to forge a partnership, to forge teamwork, because health and safety in the workplace is everybody's problem and everybody needs to find a solution for it.

The Chair: The next presentation is from the Ontario Federation of Labour. Members have been distributed the copy of the brief; the outside of the brief looks fairly similar to the outside of the Canadian Federation of Independent Business brief. Mr Wilson, welcome to the committee. If you would introduce your colleagues, we can proceed whenever you are ready.

ONTARIO FEDERATION OF LABOUR

Mr Wilson: Let me begin on my right. I am joined today by Sister Julie Davis, who is the secretary-treasurer of the Ontario Federation of Labour. On my left is Ken Signoretti, who is a vice-president of the federation. On my immediate left is Linda Jolley, who is the health and safety director for the federation.

Let me begin by thanking the committee for the opportunity to appear before you. As I am sure most committee members are aware, the federation is the central labour body in this province, representing approximately 800,000 workers.

We are appearing before you today in an attempt to save the more than 2,500 workers who can be expected to die in the next 10 years, based on the experience of the past decade, and the more than four million workers who can be expected to be injured if we do not now produce an Occupational Health and Safety Act that ensures safe and healthy workplaces in Ontario.

On average, one worker dies in this province every working day and during 1989 more than 1,800 workers were injured every working day, which is 227 workers per working hour. These figures do not represent the toll taken by occupational diseases caused by toxic exposures, which has been estimated to be as high as 6,000 worker deaths every year in Ontario, that estimate being from the report of Annalee Yassi.

There is something very wrong with our health and safety system, notwithstanding that many of our employers are prepared to accept the status quo. When this government introduced Bill 208 on 24 January 1989 we welcomed the initiative as a framework upon which we could build with amendments to produce the finest health and safety legislation in North America, as was stated by the minister earlier in these proceedings last year.

The bill contained a number of very important steps forward. The government recognized the importance of labour and management working together in a bipartite Workplace Health and Safety Agency to set the standards for all training in occupational health and safety in the workplace and to direct research in the field. This direct involvement of the two parties most responsible in the workplace would not only ensure that the \$46 million that is allotted to health and safety training, research and clinical services would now be more directly useful and relevant, but would also ensure compliance in the workplace.

The government recognized the need to ensure the right to participate in workplaces of 20 or more employees, whatever the nature of the work, which meant that more than 30,000 workplaces would have joint committees, including office and retail establishments and construction sites of more than three months' duration. Smaller workplaces of between five and 19 employees would have worker health and safety representatives. Joint committees would have co-chairpersons, once again promoting labour-management responsibility.

All members would be required to be trained and worker members would have one hour in preparation time prior to each meeting with their employers. In addition, one worker member and one management member of these joint committees would be required, through extensive training, to be certified and would have the right to investigate worker health and safety complaints. Following this extensive training, the worker certified member was to be given the right to shut down an immediately dangerous and unlawful job. As well, the government appeared prepared to recognize the individual worker's right to refuse an activity that was unsafe or unhealthy.

The increase in the maximum fine from \$25,000 to \$500,000 indicates a serious attempt to address the current climate of noncompliance, assuming an aggressive prosecution policy were to be followed.

The original Bill 208 was not legislation we would have written, but it did advance some important principles that we felt could be built upon to ensure safer and healthier workplaces in this province. Business's response, however, has been just short of hysterical, particularly from the small-business community, which stated opposition to any real participation by labour and dire predictions of mass industrial chaos if workers were given this enhanced ability to protect themselves.

Consider, if you will, business's response in 1976 and again in 1978 when the present bill provided the individual right to refuse. Their response was also hysterical with the same warnings. Consider further that the Minister of Labour himself came before this committee in December of last year and stated that the right to refuse unsafe work has not been used frivolously in this province and there is no reason to believe the right to shut down would be abused.

Business's bottom line appears to be that the present act is good enough, but we do not believe that you or the people of Ontario will accept a standard that condemns more than 300 workers to death every year, often needlessly, to be good enough. Nevertheless, the Minister of Labour and this government have betrayed workers in Ontario by moving to gut the very principles that would have moved us forward, and for what purpose? I submit it is simply to appease the hysteria of the business community.

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The former Minister of Labour did consult with both labour and business and put forward a bill that most of the members of the government stated they supported when this federation lobbied the members of this Legislature in May of last year, yet with the change of minister came a change in the fundamental principles upon which Bill 208 was based. The amendments the minister proposed on second reading of Bill 208 in October are quite simply unacceptable to us and to the workers we are privileged to represent.

Despite the suggestion that Bill 208 attempts to foster equal labour-management participation and responsibility, the introduction of a neutral chairperson undermines that bipartite concept and suggests the ministry has already determined that labour and management cannot work together without a third party directing their activities. The imposition of a neutral chairperson removes the imperative that the two workplace parties come to an agreement that is acceptable to all. The minister's proposal allows this third interest to impose a settlement, which will undoubtedly

create an atmosphere of nonconfidence in the process.

As well, enabling the safety associations to have the right to determine the representation on their boards of directors immediately limits the agency's ability to direct these associations and to let the workplace parties determine how, when and what health and safety training should be delivered through this new agency.

The proposed restriction on the right to refuse unsafe activity to one involving an immediate danger only, and excluding a long-term chronic situation that could produce crippling repetitive strain injuries, is quite frankly a step backwards. In many of our workplaces the right to refuse both immediate and repetitive long-term activities has been upheld by the ministry itself and the Ontario Labour Relations Board. Therefore, such a restriction would in reality be a step backwards.

The imposition of the prerequisite of immediate or imminent danger, which I would point out is a concept that was rejected by this very Legislature back in 1978, would place us behind a number of other provinces including New Brunswick and Manitoba. Repetitive strain injuries of the back or other parts of the body account for the largest proportion of disability compensation claims, over 48 per cent during 1987 from this province. Workers must be empowered to act to protect themselves, and in doing so, persuade employers to redesign both the work and the workplace to make it safe.

The restriction of certification on construction sites to only those of 50 or more employers means that the additional benefit that certification training would provide to their joint committees would be eliminated. Construction is recognized by all as one of the most dangerous of industries. This proposal would eliminate between 80 per cent and 90 per cent of construction sites in this province from this additional attention.

The proposal that indicates most clearly the minister's capitulation to industry's interests is his musings about amending the worker certified member's right to shut down an unsafe operation. The minister states it is not in the interests of promoting labour and management equality to give one party this unilateral right. What the minister does not recognize is that the employer already has this right to shut down, whether it be for health and safety, for product quality or simply to walk away from the facility.

The suggestion that such a decision could be made jointly is, again, maintaining the status

quo. If the employer now agrees with a worker that a job should be stopped, it is stopped. But it is the employer who essentially has the unilateral right to veto that decision, and the more than 300 yearly deaths indicate their actions do not work. The majority of employers have been practising avoidance rather than compliance in matters of health and safety.

The right to shut down is not a new or even radical suggestion. Worker representatives in Sweden and Australia have had this legislative right for many years and there is no indication of abuse despite employers' dire predictions. As well, in this province the United Steelworkers of America has negotiated such a right for its worker inspectors in Rio Algom, Denison and Inco and no case of abuse has been documented.

If anything, the statistics from these jurisdictions indicate a very cautious approach to the utilization of this right by worker representatives. The involvement of inspectors in the disputes in the use of this right has declined over the years as employers have come to recognize that it is used responsibly and only where a serious problem must be addressed directly and exists in the workplace.

The suggestion to differentiate between good and bad employers is not workable. We already have the experience of underreporting of claims to avoid penalty assessments under the current compensation system, so claims experiences cannot accurately be used to differentiate.

If the right to shut down is removed from a good workplace, it may place workers at additional risk since the ministry has already initiated a policy that removes regular ministry inspections from such workplaces. I would suggest the reason for that is that the ministry is attempting to maximize what scant resources it has with regard to the number of inspectors who exist in this province, fewer than 300, notwithstanding the efforts of the inspectors themselves. Where these workplaces do not receive regular ministry attention is precisely where workers must have the ability to act to remove a serious threat to life or limb. Bad employers need all the incentives possible, including the compulsion of legislation.

These proposals would in our opinion gut Bill 208 and make it impossible for us to accept or participate in a system that we consider would take us backward from the present situation and that will do little or nothing to prevent the ever-increasing toll of fatalities and injuries occurring in our workplaces.

We welcome the remaining three proposals presented by the minister to this committee, including an independent appeal system for appeals against the ministry, clarification that the union or workers themselves would select the certified worker member and clarification that management could not start up a job that has been shut down, although I would add that with the possible removal of the right to shut down this change would mean very little.

But these proposals to this committee do not overcome what we consider to be a basic curtailing of the principles set forward in the original Bill 208, which was a hammered-out consensus between business and labour in this province. Workers need a bill that will ensure the equal participation of labour and management, both on the proposed agency and in the workplace. In that effort, we are proposing a number of amendments that would strengthen the internal responsibility system and ensure that workers can act to protect themselves. Time prevents me from outlining each amendment in detail, but I would refer the committee to our brief and ask for your serious consideration of each proposal. There are, however, a number of proposals that I would wish to emphasize.

To place Ontario in the forefront of health and safety legislation in North America it is essential to cover all workers in this province under all aspects of the legislation. Presently, domestics and farm workers are excluded from the protection of the act, notwithstanding that agriculture was the fourth most dangerous industry during 1986 in this province, and that was indicated by the number of disabling injury claims per million hours worked.

The exemptions and limitations of the right to refuse unsafe work by public sector workers must be removed and the proposed extension to limit the right to shut down in a similar manner must also be rejected. No other jurisdiction in Canada has exempted firefighters, police or correctional officers from the right to refuse unsafe work. No other jurisdiction specifically limits health workers' right to refuse unsafe work. The so-called threat to public safety with such a right has never materialized.

The ammonia leak at Canada Packers last year, which took the life of one worker, shows us the bravery of our police, firefighters and ambulance attendants who entered that building without proper protection in an attempt to save lives. If air ambulance attendants had been able to refuse to fly in unsafe air ambulance planes, not only they, but the patients and the flight crew,

I submit, would still be alive. I further submit that Krista Sepp, the young correctional worker in Midland, might have been able to ensure a second staff member on her shift if she had had the right to refuse, which would have most likely prevented her death as well.

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What is at stake in all of this are workers' unfettered rights to protect their person while under contract to their employer. It is crucial that these rights be protected and enforced under the law. We ask for no further protection in our workplaces than are ours on Ontario highways.

The government's amendments to limit payment to a worker using his right to refuse only during the first step of the refusal is not only a step backwards in present practice, but places a definite dampening effect upon this important right to act. Again, if Ontario is to be in the forefront, then I would suggest it look to other jurisdictions, including New Brunswick, which guarantee full wages and benefits when a worker acts in compliance with the law.

As well, workers affected by either a work refusal or a shutdown by a certified member or an inspector must also be protected. It is a case of double jeopardy to have been placed at risk in the first place and then, when action is taken, to lose wages during the shutdown. In the workplace, it also places incredible peer pressure upon workers who want to act to correct immediately dangerous situations.

If we are to accept internal responsibility as the basic philosophy of the act, then the protection of the rights of workers to act under the law is as important as following a health and safety regulation. Currently, employers are intimidating workers from using the right to refuse by initiating reprisals against them in the form of suspensions or firing without pay. Although the worker has a right to appeal to the labour relations board or to arbitration and will be reinstated with back pay if he or she acted in compliance, the employer in no form is prosecuted for such a flagrant violation of the law. The effort and the time required to ensure workers' protection under section 24 of the present legislation has a definite deterrent effect upon workers using their rights and employers know that there will be no consequences for their illegal behaviour.

The right to refuse unsafe work must be further amended to ensure that another worker cannot be assigned the refused job until the issue is resolved.

The tragic death of Dino Gallina on 7 April 1989 at the Gerber company speaks volumes on the need for this change. Mr Gallina was electrocuted doing a job that a health and safety representative had already refused because he considered it to be unsafe. We will never know if Mr Gallina had been informed of that refusal, but if that job had been corrected following the first worker's action, Mr Gallina would not be dead.

The right to refuse and the right to shut down unsafe work are simply mechanisms to ensure that an internal responsibility system responds to dangerous situations. Until the danger is removed, no other worker should be placed at risk.

Bill 208 will essentially limit the right of the joint committee members to inspect the workplace. While it attempts to clarify the need for monthly inspections, these inspections will be limited to a section of the workplace only, and all sections of the entire workplace are ensured inspection only once a year. Hazards regularly arise in workplaces and inspections are the mechanism by which the workplace parties can identify these hazards and correct them before they become a real danger. Many of our members have been inspecting their entire workplaces on a regular monthly basis, and in some cases more frequently, and limiting inspection to only a part of the workplace will again be a step backwards.

Finally, it is essential that this legislation direct the Ministry of Labour to engage in an aggressive enforcement policy for those workplaces in violation of the act. The philosophy of internal responsibility does not provide for the exemption of violators from prosecution as the McKenzie-Laskin report suggested. In that report they stated that labour and workers could not expect that the Occupational Health and Safety Act be enforced in the same manner as the Highway Traffic Act or the Criminal Code.

All legislation is essentially based on internal responsibility, by which the citizens of Ontario are expected to regulate their behaviour in compliance with law. We are expected not to drink and drive or to assault others, and when we fail to regulate our own behaviour we have every expectation that we will be subject to prosecution. In occupational health and safety, as citizens we expect no more and as workers we expect no less. We do not believe that, as legislators, you pass laws based on an understanding that it is all right to flout that law as long as you keep talking to the other party. Compliance with this law is in fact a matter of life and death.

Employers have opposed any historical or ground-breaking initiatives to enhance the quality of life for working people. When unemployment insurance was introduced, employers opposed the move and warned that workers would merely stay at home and not work. When pensions were introduced, employers opposed the move and told workers that they had a responsibility to save from their meagre earnings for their old age. Employers also opposed universal health care until the cost of medical benefits negotiated by unions became too high and it was opportune for them to shift that cost to the public purse. Now employers oppose health and safety reform because they believe that giving workers the right to protect themselves will interfere with management rights and therefore their profits. Put another way, safety is too costly.

Each of you, as well as all of us, have the responsibility to develop an Occupational Health and Safety Act that will dramatically reduce the tragic toll that is ever growing in this province's workplaces. If, in the end, the interests of industry are served once more to the detriment of workers' safety, then this government will be sending a very clear and precise message to the workers in this province that as a government, along with employers, you are prepared to accept that one worker should die each day in our workplaces and more than 1,800 workers shall be injured each working day, and that will be an acceptable standard for doing business in the province of Ontario.

I would hope the members of this committee would agree with us that this is not acceptable. As a society, we can no longer tolerate the conditions in our workplaces that kill, maim and disease our workers. Our economy cannot afford to lose such productive capacity through often needless injury as well as illness, and our social systems will have to pay the cost of maintaining the victims and their families.

This government is always attentive to any loss of production, especially due to industrial disputes, but workplace death, injury and illness took more than seven million days from production in this province in 1987 alone. That was seven times more days lost to production than through strikes and walkouts. The indirect cost to our economy, to put it in approximate terms, was somewhere between \$6 billion and \$10 billion in one year alone.

We ask this committee and this government to take the necessary steps to produce an act that will ensure safe and healthy workplaces for all of

the workers in this province; from our perspective, to alleviate pain and suffering; from a business and government perspective, to put it crassly, to enhance production and the economy. We, of necessity, need an act that will truly place Ontario in the forefront of health and safety in this workplace.

Thank you for your attention.

The Chair: Thank you. We have only about five minutes left. I wonder if I could ask a brief question myself, if I could engage in some self-indulgence. At the bottom of page 11 there is a rather ominous statement in which you say, "If the final bill contains these amendments"—namely, the amendments proposed by the minister—"we cannot participate." What does that mean?

Mr Wilson: Quite frankly, we would be better off then to go back to the trenches and try and fight it out with the employers on a contract-by-contract basis, which to my mind is not a very intelligent way to approach the problem. It is far better to follow the course that, I would remind members of the committee, the business community and the workers' community and the recognized organizations began almost two years ago. That dialogue ended in the principles that were embodied in Bill 208.

I do not recall anyone coming back to the workers of this province asking us if the current amendments proposed by the minister were going to enhance that situation. We were told about them and then when we did our analysis it was clear it was moving back from the position that had already been agreed to.

Mr Mackenzie: Two short, quick questions. First, as a result of a fair discussion that was held in the earlier hearings of this committee as to the responsibility that workers and others were taking on in the bipartite approach, the question was asked—which I know you have dealt with but you might want to elaborate on it slightly—"What is wrong as far as labour is concerned with a so-called neutral chairman or third party?"

If I can give you both, maybe just to save time, the other question simply is—and I think you just referred to it in your comments now—following the consultations that led to the original Bill 208, was there any discussion whatsoever with the labour movement in terms of the suggested amendments that the new Minister of Labour brought into the House? The inference was certainly made in earlier hearings that there had been broad discussion.

Mr Wilson: To me, discussion means the process by which you try to arrive at an agreement, and I can tell you there was no discussion. We were informed of the changes.

Let me make a couple of comments very quickly, then I understand Mr Signoretti would like to make a comment as well.

I have difficulty with the neutral chairperson. Those of us who have been involved in the process—and I am sure you might get the same reaction from a number of persons from industry who are involved and engaged in collective bargaining—find that when both parties approach the table knowing that they do not have to arrive at a decision, that a third party will make it for them, there is less than an honest effort to try to get that decision. What it does is push the process up to a single person who has to then make the decision, and what it creates is an environment or an atmosphere of nonconfidence by one party or the other, in that what they wanted to get to they did not get to.

Now, contrast that, if you will, to two parties who come to a position, regardless of whether it is a little bit on one side of the middle from one or the other, they have agreed to that and therefore there is at least a satisfaction that they know what the deal is. We are very concerned about that. I do not know how you ever arrive at the selection of an individual person that will be neutral to both parties; and, quite frankly, if one is imposed, either one party or the other will resent it and it will be counterproductive to the process.

One final point I would like to make, which touches on your question, Mr Mackenzie, is that when I hear terms such as I did from the group that made the presentation before us about co-operation and teamwork, efforts of co-operation and teamwork, as it was painted in that presentation, would lead one to believe that is all we have to do to solve the problem. But we have attempted to work with businesses and managers in this province to resolve problems.

Earlier today, we held a press conference in which we brought out a variety of cases—only a few; you will hear more before this process is over—where, if workers' intelligence had been respected in the workplace and the job had not been worked on, workers would today be alive. That is a fair submission to make based on the evidence before the coroners' inquests.

When I hear "co-operation and teamwork" and the presentation in the environment that somehow if the status quo is prevailed and we talk more it is going to correct the problem, you have to look at what the record is. Co-operation and

teamwork and the concept that was proposed by the Canadian Federation of Independent Business before me is that the equation is equal to 300 deaths per year and almost 500,000 workers injured. There will not be any change in the workplaces unless there is some compelling force to make that happen.

Mr Signoretti: I have a couple of comments regarding the CFIB brief. When Ms Ganong alluded to small business and talked about how they can work together because everybody knows one another, I assure you that all depends on what side of the equation you are on.

I am from Sudbury and I work for a firm called Canadian Liquid Air, where there were 11 employees. When I joined the company in 1953, it was a nonunion firm and had been like that for about six years before we finally joined the union. One of the lines the company pushed was the fact that we were a small group, we could work together, we could do all these things and we could solve all our problems. The curious part about it all was that you worked out the problems only in the way the company wanted. If you had a view that was different, you were a communist. Increasingly, that is the problem. It is not the world of reality out there, when they talk about small business, that with 11 people you can work together; you cannot work together.

Another comment she made was there must be more of an awareness program in terms of the individual right to shut down. I have been a staff representative, as Gord and Julie and a lot of other people have for a lot of years. When you come to people who are immigrants, if they complain about the job and they say, "Look, shut it down," they are told, "Look, you keep your mouth shut or you are going to go back to Italy or Portugal or wherever." If this committee does not think that does not exist, you are living in a dream world. I really hope you consider that situation.

There is one other final comment I would like to make, if I might. We have been at a lot of committee meetings and I would like to say to the Liberal members on the side over here, we go through the exercises. I was here the other day with John O'Grady and I mentioned an exercise in futility. We went through the Bill 162 hearings, the Sunday shopping hearings or whatever. You listened very politely, but you really did not listen. It is really important now. We really would like you to listen to this.

The Chair: We really are out of time, but in all fairness we must give the other two caucuses a question.

Mr Carrothers: I will be brief. I was going to ask you to comment on the Canadian Federation of Independent Business presentation, which you already have, so let me just focus on one point.

I think somewhere in here—on page 7, I guess it is—you talk about the small business advisory committee as part of the agency and suggest that it does not really work as part of the partnership, although you do state that the interests or special circumstances of small business should be considered. If such a committee is not the way to do it, how would you see the special interests or the needs being formally part of the process. What mechanism would you suggest in place of that committee?

Mr Wilson: You have to be cognizant of the fact, if I can submit it to you, that the small business community was part of the dialogue that took place between the business community and the labour community for almost a year in this province. The structure that was recommended by the Minister of Labour, I am sure, was in the context of sound public policy from the government's perspective. Quite frankly, it made neither the labour community nor the business community very happy. He went down the centre of the road. Our view was that we would build upon that; theirs was that they would try to move the markers back to where they were.

The proposal within the agency allows for the flexibility of small business input, should the business community determine that it wants to do that. Let me make one comment, if I can, on the labour side, where there is a proposal by the CFIB to make it half and half. The reality is, quite frankly, that it is the organized labour movement in this province that represents every worker in this province. Every time we agitate for, and achieve, a standard through legislation it applies not just to our members but every other member. The best way to test that is to come up with an example of where a piece of legislation has promoted the interests of working people which has come from a nonunion sector—where workers have generated that themselves—and I want to suggest to you, I do not think there is any in the statutes of Ontario.

I have one final comment attached to your question. It is also important. The CFIB referred to the Ministry of Labour's advisory council. That is a very revealing report and I would commend it to the members of this committee. Let me quote one example for you. That advisory committee—remember, it was a ministry committee—found that 78 per cent of the work-

places in this province were in violation of the act or its regulations.

So to argue, as the CFIB did, that the status quo or less than the status quo will be sufficient to correct the problem, I would suggest to you, is not a very strong argument to be advanced before this committee.

The Chair: Thank you. Mrs Marland, you have any questions?

Mrs Marland: I will pass, in view of the time.

The Chair: Let us continue with the presentations. McDonald's Restaurants of Canada. Gentlemen, if you would introduce yourselves, we can proceed.

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MCDONALD'S RESTAURANTS OF CANADA LTD

Mr Fong: Members of the committee, my name is Ken Fong. I represent McDonald's Restaurants of Canada Ltd. May I introduce my colleagues: Brian Ray, personnel supervisor of McDonald's, and Mario DeAnna, a franchisee and owner-operator. We are pleased to be given the opportunity to appear before you to express our concerns with regard to Bill 208 as it pertains to McDonald's.

At the outset, I must tell you that McDonald's endorses the fundamental principles of the bill. The workplace should be a safe and healthy place for all workers. If this bill becomes law in its present form, there will be an astounding number of people who will require training. The Ministry of Labour's estimation is that as many as 200,000 workers will require to be trained. In the McDonald's system alone, we will be responsible to certify, on an ongoing basis, approximately 500 workers per year.

Mr Ray will give the committee the McDonald's position and a background of McDonald's operations and Mr DeAnna will give you his views as they pertain to the bill from the perspective of an owner-operator of a McDonald's restaurant. We certainly hope that our appearance before you today can go some way towards balancing the interests which have been developed by the Ministry of Labour and those of the retail food service sector in relation to the bill.

Mr Ray: In order to put our position into proper context, I would like to take a brief minute and explain to you our operations. Presently in Ontario we have 245 restaurants. One hundred and twelve are licensed to franchisees as well as to small independent businessmen as well as businesswomen. The remainder of the

restaurants—133—are owned and operated by McDonald's.

As a whole, McDonald's provides approximately 20,000 jobs to workers in the province. The majority of our employees, as you are probably aware, are part-time students who enter the workforce for the very first time. Approximately 80 per cent of these employees work less than a 14-hour work week simply because of our commitment to our employees' education.

Linked with student employment with McDonald's Restaurants is an unusually high job turnover rate. McDonald's is presently participating in the new experimental experience rating plan, the NEER program, established by the Workers' Compensation Board. We are presently enhancing and implementing additional safety procedures in all of our restaurants in order to take advantage of the economic incentives offered through the NEER program.

At the outset, I would like to point out to you that McDonald's, as set forth in our written submission, strongly disagrees with the provisions of Bill 208 simply because we believe the current legislation, with a greater emphasis on enforcement, coupled with the NEER program and working with existing safety associations, will effectively ensure a safe workplace for our employees.

However, in the event that this committee recommends the amendment to the act as contained in Bill 208, we feel compelled to offer some of the following suggestions.

First, I would like to point out that the bill does not provide any representation for nonunion employees in relation to part-time directors to be appointed to the new Workplace Health and Safety Agency.

We recommend, since a large majority of the workforce in Ontario is nonunion, that a provision be made for the appointment of representatives who have no affiliation with the union.

Moreover, we suggest that consideration be given to appointing a representative from the retail food sector because of the large number of workers represented by that sector in the province.

I will now let Mr DeAnna express his views as a McDonald's franchisee.

Mr DeAnna: I propose to highlight for your committee three areas of major concern which Bill 208 causes for me as a small businessman and, for that matter, all McDonald's franchisees, as well as all McDonald's restaurant operations. Those areas are:

1. The right to refuse—to stop work;

2. The selection process of health and safety representatives and safety committee members; and

3. Compliance costs.

The right to refuse or stop work: the day-to-day business of McDonald's is preparing and serving food to our customers. The granting of a right to a worker to refuse a job activity that is likely to endanger the worker or, for that matter, a fellow worker, is too subjective to apply in my restaurant business. The implications involved are obvious. If a worker improperly refuses to carry out an activity, it will result in the customer, either at our counter or drive-through, being shortchanged and dissatisfied with his or her experience at my restaurant. As some of you members may know, having personally experienced similar situations in a restaurant, a dissatisfied customer does not come back.

Therefore, as you can see, the end result of a worker who wrongly refuses to perform an activity means a loss of productivity, a cost to me of that employee's wages while the matter is being investigated and a disgruntled customer who leaves and in all probability will not be back because of this unfortunate situation.

Second, I disagree with the unilateral right of a safety committee member to direct an employee to stop work or to cease carrying out a specific job function without allowing me or my certified safety committee member to question the alleged unsafe situation. This unilateral right can be subject to abuse. In addition, for the reasons set forward above, the stop-work order, if abused or wrongly imposed, will be disruptive, create undue expense, delay, loss of productivity and uncertainty for me, ultimately leading to the loss of our customers.

As an adjunct to the provision, I would also submit that an inspector should be available 24 hours a day, 365 days a year and be obligated to immediately attend the workplace and immediately deliver his written decision with regard to the work stoppage or job function which is alleged to be unsafe.

In summation, it is my position that the current right to refuse work, as contained in the existing legislation, is a sufficient safeguard for workers.

The selection of the health and safety committee members: I have one point to make with regard to the selection of safety committee members and health and safety representatives. It is an unrealistic requirement for my restaurant business and will impose an undue hardship and expense on my operation. The cumulative effect of my employee profile—largely part-time stu-

dent workers, relatively high turnover and less than a 14-hour workweek—simply means that the requirement of two safety representatives is unworkable because it would require me to continually certify safety committee members on an ongoing basis. There would also be no continuity, consistency or longevity for my restaurant safety committee members.

If I cannot be exempted from Bill 208, as suggested in our brief, I strongly suggest an employer such as myself be treated the same as the residential construction sector, which also has a high degree of worker turnover: allow the election of a safety representative as opposed to the establishment of a certified safety committee.

I have one point to make on compliance costs and that is that they are unreasonable. We have completed a study on the number of man-hours it would take to certify safety committee members and administer the requirements imposed on an employer under Bill 208 as it pertains to our restaurant business. On average, the total number of additional man-hours is approximately 800 over and above the man-hours that are presently spent on maintaining a safe work environment in the restaurants, and 800 man-hours per restaurant translates into approximately \$2.5 million per year of additional cost to the McDonald's system in Ontario.

These inordinate administrative and certification costs are unreasonable and unnecessary, particularly when viewed in the light of the recent employer health tax which became effective this month and requires employers to assume an additional cost of 1.95 per cent of their payroll as an added health expense.

In closing, we make a number of general comments in our submission relating to the bill. We do not propose to review these remarks because they are contained in the submission.

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I feel most strongly that the act, if amended in accordance with the bill, would be an unrealistic law for the retail food service sector. We urge you to carefully consider the potent implications of the bill and ensure that the bill that is enacted is realistic, workable, and above all fair and reasonable to employers and employees alike.

Those constitute our major concerns with the bill before you. We would now be pleased to answer any questions you may have to clarify our position.

Mr Carrothers: I wonder if I could pick up on the comments you made at the beginning about the requirement to train 200,000 workers, and I guess also your statement that you agree with the

general principles of the bill. It would seem that a safe workforce would need to have a well-educated workforce and one of the difficulties we have is that perhaps many workers do not recognize unsafe conditions.

I may have picked up the wrong implication from your comment, but what would be wrong with having that number of workers trained in the province to understand difficulties in the workforce, particularly one such as your own, which seems to be a workforce of younger people, perhaps inexperienced workers, who might not recognize problems and might require a little bit of formal training to see those difficulties?

Mr Fong: What we said was that 200,000 people were required to be trained. What we are saying is that the realities of our situation are that on an ongoing basis, 500 workers per year will be trained and certified if the certification of the safety committee proceedings follow through on this bill, because of the fact that the bill does not recognize the turnover aspect in our business.

We are saying it is difficult to achieve continuity and consistency on a safety committee when you train workers if the worker is here today and then decides to leave the employment tomorrow. That is what we are faced with in our business because of the part-time workers.

Mr Carrothers: The part-time nature of the workforce.

Mr Fong: Yes.

Mr DeAnna: We do not disagree with having to train employees to become aware. That is not the problem. Our problem is that the employees do not stay in the business long enough, because of their commitment.

Mr Ray: If I could jump in for half a second, the employees themselves, on a continual basis from day one, are trained in occupational health and safety in the workplace. We go through an extensive orientation with our employees before they even reach the production area of the floor, whether it is in the service area or the production area, dealing with a number of different things, whether it is as simple as where the first-aid kit is located, how to use the contents of the first-aid kit, where the Occupational Health and Safety Act is posted and their rights under the act as well.

Then once they do get on to the floor, there is a training process too, whether it is knowledge of the piece of machinery they are going to be working on or the possible dangers associated with the other pieces of equipment in the

restaurant. They are very well versed on that before they even get working on the floor.

The other aspect of a McDonald's restaurant is that there is always someone on the floor who can help them in case of an accident. They do know how to react to an accident if they have to.

Mr Carrothers: I guess you have led into what was going to be my next question. If you are asking to be exempted, I wonder what you would suggest as a replacement for certified training. What you are saying is that your company is very good or has a good training program and watches very carefully. What about those workplaces where it does not happen, but might still have high turnover? What mechanism could you think of to replace this mandatory training?

Mr Fong: To respond to that, there are possibly two. One was recognized by the ministry in the residential construction comment which said the election of safety representatives, or alternatively perhaps a more realistic way would be to designate, where you have high turnover, one certified member or allow management to designate a certified member who is a full-time worker, to take the training and be that person as opposed to having two certified members for workplaces which are over 50 and which have high turnover.

Mr Carrothers: Just one final question: On page 7 of your notes you have set out these compliance costs and the number of hours per week. I guess these are your estimates. Is that for your whole system?

Mr Ray: These are the estimates for one restaurant.

Mr Carrothers: For one restaurant.

Mr Ray: For one restaurant on a yearly basis.

Mr Carrothers: On a yearly basis. Okay.

Mrs Marland: I just want to be clear. You are saying that the majority of your staff are nonunion. Is that what you said?

Mr Fong: Yes, we are nonunion.

Mrs Marland: I guess I want to know whether you meant what you said to sound the way it did. I want to give you an opportunity to clarify it. You said that a large number of your employees only work a 14-hour week, and since your text from which you are speaking this morning does not match your handout, I was not able to go over it again in front of me. Surely if there is a risk to an employee it does not matter whether he works two hours or 45 hours a week. The risk is the same. The risk is there and it is constant. I do not think the fact that staff only work a 14-hour week

is relevant. I know it is relevant in terms of your investment in training that many more employees in workplace safety, but the obligation on the part of an employer is as great whether they are part-time with very minimal hours or they are full-time. I do not think that was what you intended to convey, was it?

Mr DeAnna: No; certainly not.

Mr Fong: No. It dealt with Mr Carrothers's question. Whether it is one hour or a half-hour of work, the issue is continuity for a certified safety member. It was made in the context of our employee profile, to show that some recognition has to be given in our opinion to the fact that a certified safety member who is going to be certified may not be here today. He may be certified and then may choose to leave the employment tomorrow and cause the employer to recertify again. There has to be some mechanism—

Mrs Marland: I do not know enough about restaurant operations, or a lot of other workplaces for that matter, in particular specialties, but is it not possible that where you have a very high turnover of staff and you have a very high percentage of that staff working minimal hours on a part-time basis, if there is a risk in that workplace, all of those factors accentuate that risk?

You are not working with people who come in every day and work seven or eight hours a day and get to perfect good safety practices for their own sake in what is usually a safe workplace. They may be at greater risk because of the fact that they are part-time. Is it not possible that in your kind of operation it would be worth the investment to hire someone who is full-time there all the time, and have that as a career direction for that individual so he does not become someone who is in and out of the employment of McDonald's Restaurants on a fairly fast turn-around?

Could you also tell me how you presently deal in your operation with unsafe situations? Do you listen to the kid who comes in two hours a week who really thinks that with his amount of experience what he is doing may be unsafe, and how do you deal with that complaint in a nonunion situation?

Mr Ray: To answer the second question first, we are used to this business of inordinately high turnover. When an employee does have a question with regard to workplace health and safety, he simply takes it to the management personnel on the floor. If it is an immediate situation, we deal with it on the spot as far as

compliance with the employee's wish is concerned.

In the spectrum of it, we have ongoing health and safety committee meetings every three months. On a monthly basis we go through a health and safety checklist with appointed members or selected members of our staff who go through this checklist. It covers the realm of things, whether it is the temperature of the hot water sink to the exit lights burning brightly. The list can go on and on. That is done on a monthly basis. The management people are then required to give their action plan based on that and report back to their immediate supervisor as well as they can as far as compliance with the employee's wishes are concerned. As mentioned, every three months we sit down with the health and safety committee members and go through the various checklists we have done.

1140

Mrs Marland: What about the question of investing in somebody who is full-time as a career person?

Mr DeAnna: In effect, what we suggest in our dissertation is that we, or myself as an operator, have the right to make that selection. This is one of my concerns. I would want to select someone who is going to give us continuity and consistency.

With respect to the point you were making about employees who come in and only work a few hours and whether they are more at risk, to give you just an idea from my end of it, we do place great emphasis on safety in terms of orientation and training. Last year—again, this is in my restaurant and it is pretty well indicative, I believe, of the rest of McDonald's—I had four claims for injuries in all of last year and there was one that resulted in lost time of four hours. So although we have this high turnover, our emphasis is on safety. We want to do it in the proper way in terms of consistency and continuity within the system.

Mr Ray: One four-hour shift usually is the time limit for a shift, as we said before; fewer than 14 hours per week. One shift is usually in the vicinity of four or five hours. The average McDonald's restaurant has approximately 15,000 shifts during the course of a year.

The Chair: Thank you. The next question is from Big Mac himself, Bob Mackenzie.

Mr Mackenzie: I have difficulty in a couple of areas. One of them is your introduction:

"The amendments to the Occupational Health and Safety Act...and the Workers' Compensa-

tion Act, as contained in Bill 208...are some of the most progressive workplace safety initiatives in North America. McDonald's Restaurants of Canada Ltd...supports the goal of the bill to reduce injury to workers in the workplace. An unsafe workplace is unacceptable."

Then when you get into your recommendations at the end of your presentation, you suggest that "since a large majority of the workforce is nonunionized...provision should be made for the appointment of representatives who do not have any affiliation." You suggest that "consideration be given to appoint representatives from the various sectors such as the retail food service sector" industry. You talk about "chemical or physical agents, in or about the workplace" and that their existence may be abused by overzealous inspectors. You talk about the unnecessary costs of testing by overzealous inspectors. Your final recommendation is, "In view of the above, we recommend that the retail food service sector should be exempt from the provisions of Bill 208."

It really raises some questions in my mind: "This is a wonderful bill. This is an approach we should be taking. This is a progressive bill. Exempt us from the whole damned thing." That is literally what you have said.

In addition to that you also raise the question of hours for training. I am not going to say you are wrong, but I know that very effective health and safety courses at the Ontario Federation of Labour are 30 hours for one level of certification and 40 hours if you go for the second level. You have 300 hours down here to elect and form health and safety committees in the plant. You have 300 hours for the replacement and certification procedures. You may be right; I have not tried to figure it out. Then there is a lot of 48 hours for this and 48 hours for that. It seems to me that you have an awful lot of hours in your suggested program and what it is going to cost you for your industry for those certified workers who then have some expertise in the field.

Mr Ray: If you want to look at the first one, when we took a look at the 300 hours, that is simply the cost of certification for two people. What we came up with was 150 hours per individual, simply because when we took a look at our own safety training for our own management people, we were coming up to about 115 to 120 hours to train our own management people when it came to workplace health and safety.

We have a preventive maintenance course that simply takes all the pieces of machinery in the restaurant. You learn about all the different

aspects of the machinery. There are first-aid courses. The list can go on and on. There is the implementation of the workplace hazardous materials information system program, the posting of it and the changes on a regular basis to it. We took a look at all those different aspects of a management person's responsibilities with regard to workplace health and safety. That is the number we came up with as an average cost of certification for one workplace.

Mr Mackenzie: My only suggestion there is that I suspect those figures will not hold up in terms of the certified worker training periods that we are talking about; that in fact they are exceedingly high.

The Chair: Okay. Thank you, gentlemen, for your presentation. We appreciate it.

Mr Fong: Thank you.

The Chair: The final presentation of the morning is from the Canadian Paperworkers Union. Mr Foucault is here, I know, and perhaps others.

The brief has been distributed to members of the committee and we welcome you to the resources committee this morning, gentlemen. André, if you wish to introduce your colleagues.

CANADIAN PAPERWORKERS UNION

Mr Foucault: Good morning. My name is André Foucault. I am a national representative of the Canadian Paperworkers Union and I am appearing today on behalf of our national organization and on behalf of our regional vice-president, John McInnes.

I would like at this time to introduce the two colleagues who accompany me here before you today. To my left is Mark Weare. Mark is president of Local 105 of our union in Dryden, Ontario, which represents employees of Canadian Pacific Forest Products in that community. To my right is Bob Lavallee, who is president of Local 528 of our organization in Red Rock, Ontario. Local 528 represents the employees of Domtar Packaging in that community.

I have delivered to Mr Brown a copy of our brief. It is not my intention to read that brief into the record, but rather to make a few remarks which will be complemented by Mr Lavallee and Mr Weare at the appropriate time in my remarks, after which time we would be very pleased to answer any questions the committee would like to put to us.

Before beginning, it might be appropriate to define for you our jurisdiction. We represent 70,000 members across the country, 22,000 in

the province of Ontario. Our members are engaged primarily in the fabrication of newsprint, fine-grade papers, waferboard, construction lumber and in the converting sector, which produces envelopes, bags, corrugated containers, box board, school supplies, greeting cards and other products related to the forest industry. We, in a sense, mirror the rate 23 group as defined by the Workers' Compensation Board. It is not a total reflection, but it is very close.

The committee should also be aware of the fact that over the last eight months we have experienced eight losses of life on the job in our industry, and in the 12 months previous to that, it was five people who lost their lives at work. These, in our view, are deaths which were needless, were tragedies, a severe reflection of some massive flaws in our approach to joint health and safety in the workplace, deaths which could have been prevented by proper training and proper workplace health and safety rights.

This is, in our view, and I am sure in yours, clearly unacceptable. In our brief, we make an analogy. We refer to human life as the real property—the only property that we, as humans, have is our own lives, our limbs. Everything else can be altered one way or another, but this cannot be taken away from us. Yet our society protects other property rights with much more fervour than it does life as it is exposed to tragedy on the job.

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The government of this province is committed to a system of internal responsibility within the workplaces of Ontario. The system thus far has not worked because it lies on a very faulty foundation. Based on that, our organization, our union cannot, under those circumstances, support the concept of internal responsibility.

Bill 208 could give us an opportunity to solidify this foundation, the foundation upon which the internal responsibility system can work; the foundation upon which we could be participants in making IRS function where we would have some hope of achieving our objectives. But as it presently stands before us, it does not do that. It is our union's view that the government cannot speak or act in one way and expect results in the opposite direction.

If workplace parties are expected to rely on a certain system to protect themselves, protect workers against losses of limb, life and health, then the proper tools must be put at our disposal in order to effect that objective. There are some major catalysts which can be brought to play to achieve this objective.

The right to refuse must not be undermined and must be enhanced. We submit to you that Bill 208 undermines the right to refuse in the province of Ontario.

Although the bill recognizes activity as a basis upon which a refusal can be effected by a worker, the suggestion from the minister before the committee is that it be limited to immediate activity and not apply to ongoing activity. We feel that is a major flaw. It also undermines what we have already established as being applicable to activity.

For all purposes, although activity is not mentioned in the act as it now stands, many rulings by regulatory bodies—the Labour Relations Board, to name one—have confirmed that indeed activities are covered both in the immediate and ongoing natures. As the bill now stands, and together with the ministerial proposals for review, in our view, it undermines what we already have and is therefore unacceptable.

The right to refuse is not a right which workers take lightly. I heard Mr Signoretti, on behalf of the Ontario Federation of Labour, mention just how difficult it is to exercise that right. It is a confrontational move. That is what it is. The employee, on his own, must take on the employer. That is a very, very courageous act. It is one in which the employee must be aware of his right and feel very secure in its exercise. I would submit that awareness is not as complete as it should be and the security in exercising that right, especially in nonunion places, is virtually nonexistent.

Reprisals that employers can take against employees if they exercise their right must be dealt with harshly. Society must send a message to employers that they cannot interfere with legislated rights that employees have on a job. As it now stands, if a reprisal takes place and a complaint is filed with the Ontario Labour Relations Board under section 24 of the act and the complaint is either sustained or overruled. If it is sustained, a declaration is issued in that regard. If wages are lost, compensation takes place, but there is no action taken against the employer for having broken the law of Ontario, having broken a very fundamental part of the health and safety legislation in Ontario.

One of the deterrents to exercising one's right to refuse is the spinoff losses which might take place with respect to wages of other employees, other workers. Where the employee himself or herself exercises the right to refuse, he or she is protected by the act in terms of wage loss. That employee feels a certain amount of pressure on

himself or herself to not exercise that right if that refusal is going to cause other fellow employees to lose pay. There is no protection in that regard, and that should be there.

Subsection 23(11) currently makes it necessary for employers to inform employees who have been recruited to perform work upon which a work refusal is in progress prior to assigning that work. In our view, there should be no assignment of work on which there is a refusal in progress until the refusal is resolved.

These are all major components of what a right to refuse has to have. It is not a question of undermining it; that will step us backwards and will certainly not give us the level playing field that we expect to have to make internal responsibility work. It must be enhanced by all these factors.

I state at this time, and I can speak for our jurisdiction, that the right to refuse work of a dangerous nature has been in place since the advent of Bill 139, the employees' health and safety act, and Bill 7, the Occupational Health and Safety Act. There is no allegation of frivolous use that has been sustained in our industry. Our members have exercised their rights in a legitimate, serious and forthright way. That is something which I ask you to take note of for reference at a later stage in my comments.

Bill 208 provides for the formation of a bipartite Workplace Health and Safety Agency. That concept we support; however, bipartite it must be. If we are talking about internal responsibility, "internal" means the parties on the job. We cannot talk about internal responsibility and reach out and say, "Well, we're going to introduce a third player here." It does, in a sense, condemn the whole process of the bipartite approach to health and safety before it even starts if we are talking about a tripartite composition of the agency. We are not saying we have confidence in the parties to address the problem if we are saying a third party must be present in the agency. We oppose that. That is another element which must be present if we are truly talking about internal responsibility and truly talking about making that work.

The agency must also have the authority and jurisdiction on all aspects of health and safety in Ontario: training, program development, fund allocation and representation on the associations. The agency must be viewed by one and all as being the authority in the field of health and safety in Ontario and act accordingly.

The next point, of course, is the certified worker and his or her obligations and rights. A

worker certified to do so, in the view of our union, must have the right to shut down. They must have the right to shut down an operation which, in their trained perspective, is dangerous to the health, life and limb of those people affected by the operation. That is fundamental and that is another element which must be present before the internal responsibility system can do the job that the government claims it should be doing.

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The certified worker must be able to issue provisional orders, must be able to react to immediate dangers not covered by the act or regulation and to investigate all worker complaints.

I would like at this time to invite my colleagues to share with us some of the details from at least two fatalities which have taken place in our industry over the past eight months, especially in the context of that right to shut down.

Mr Weare: I am Mark Weare. On 28 May 1987 there was a fatality in our plant, a fellow by the name of Patrick Henry Besselt. Rick was a good friend of mine. He was a heavy equipment mechanic in our woodlands division. Before we get to what happened to Rick, I will explain some of the background as to what was happening in our local at that time.

Approximately a year and a half previous to that an individual had fallen while working on a piece of heavy equipment in the woodlands garage. He was working by himself; he fell. Fortunately, the only injury that he sustained was a broken collarbone. However, he was lying in such a position that he could not get up and move and he lay there for quite some time before the security people came around. He was there for about 40 minutes before security people came around and found him there and got medical assistance for him.

There were times previous to that as well, but from that time forward, our union committee met several times. I have documented minutes of five meetings with company representatives—these were presented at Rick's inquest as evidence—when we had met with them and asked them that they put two people on shift together so that the person in the tractor shop would not be working by himself, in case an accident did occur. The company refused to do that. They refused to call in two people at a time; they refused to acknowledge the danger. They kept telling us they were assigning work that was not dangerous, if it was too big the guy should not be doing it, that he has his own responsibilities, etc.

At approximately 10:30 on 28 May, Rick was working on a 550 Dresser loader. It is a very large piece of equipment. There was a problem with the bucket, in the raising mechanism for the loader. For whatever reasons, it was not able to lift the bucket off the ground, or so it appeared. Rick was working alone, so we can only speculate as to what happened. It appears that he had removed an inspection cover. He put his head and one arm through the inspection port and he was feeling hydraulic hoses. While he was doing this, the bucket began to rise. It pinned him in there and killed him.

The distressing fact of this was that he was alone. According to tests by an independent person, the timing for that bucket to rise was over five and a half minutes. Had somebody been there at that time, he could have shut it down. The movement was so slow that it was imperceptible. He was found two hours later by security. They were the only people to tour through there, and it took them two hours from his estimated time of death to when the security people found him. What is particularly distressing is the fact that the jury's recommendations on the conclusion of the inquest stated that "Canadian Pacific Forest Products Ltd and the union form a joint committee to establish a written policy for instituting two men per shift in the tractor shop at all times."

This man was a close personal friend of mine. He was killed on 28 May; 30 May was his boy's 10th birthday. And if you want to feel futile, I will tell you, you sit down and you argue with the company and say, "Look, are you going to wait for somebody to get killed?" We do not have the right to shut it down. You look back and you see a very young man, 40 years old with a young family, who is dead. I think we need the right to refuse and my personal feeling is that if we do not get it in this bill, at least in my local, we are going to have that right to refuse. Thank you.

Mr Lavallee: On 19 April 1989, Réal Boudreau, 23 years old, was horribly, horribly burnt, with third- and fourth-degree burns to 99 per cent of his body, had severe inhalation injuries and was blinded. His fellow workmen found him approximately 50 feet away. He had crawled to a high-pressure firehose and he was trying to wash himself off.

Basically, at the time he was an innocent bystander. He was working in a department training as a cleanup man and getting familiar with the area. The area he was sent to had a recent history of equipment malfunctions. It is a hazardous area; there is a tremendous amount of

steam and hot caustic liquors and very high-pressure vessels.

Many times on many occasions in the last several weeks, the people working up there had a lot of safety concerns. The equipment was not working right and they were going to their foremen, their supervisors and the department superintendents, just trying to tell them that the stuff was not working right and that there was a tremendous potential for something very serious to happen. Unfortunately, the supervision in that department did not seem to be bothered, for whatever reasons. They were more concerned with production than with safety.

On hearing complaints and concerns, I personally approached the department management, the safety supervisors and the industrial relations department, to try to find out what was going on out there and have some of these concerns addressed. It all seemed to be for naught, for everybody seemed to have other things they had to do and it just did not seem to be a priority. Unfortunately, Brother Boudreau never had a chance. The hardest part of this tragedy to accept is that an identical set of circumstances happened approximately five weeks before. For whatever reasons, the digester did not quite open and there was no release of steam and liquor that killed Brother Boudreau.

There was a lot of concern at the time, a lot of questions were asked and again, the company just did not seem to have anything to do with it. Little did we know that five weeks later it would happen again. There is no doubt in anyone's mind there were several instances where a worker rep who had trained properly would have had the right to shut that operation down. Brother Boudreau never, ever had a chance and there is no doubt in anyone's mind that he would still be with us today if someone had had the right to shut that place down, because obviously the employer could not be bothered to do it.

Mr Weare: I have one addition. During my little talk I said "the right to refuse"; what I meant was "the right to shut down," just for clarification. I think our trained safety representative, had he had that power—I know that Mr Besselt would not have been in that situation.

The Chair: Are you ready now for an exchange?

Mr Foucault: If I could just conclude by addressing briefly the frivolity factor. We believe that the frivolity factor is a misnomer; it is nonexistent; it is propaganda to diffuse what is a worthwhile and important plank of what Bill 208 in our view should be. It has not been our

experience that people have exercised their right as workers frivolously under the right to refuse, and it certainly is not our view that people trained as certified workers would exercise that right any differently.

Mrs Marland: I want to ask something. Under the present legislation with the right to refuse, there is no requirement for a public posting or public notification of when a worker has refused to work and why. The only situation that I am thinking of is when—was it McDonnell Douglas?—10 or 12 workers made the same decision, they all went out together and they were individually refusing to work. That received a lot of publicity at the time and certainly we were aware of it on the outside, but on the inside—in the situation with your friend, Mark, had that job been identified before? Even the other example you gave before that where someone should not be on his own in that particular workplace, is there a way of public posting or notification?

1210

Mr Weare: Are you speaking within our plant?

Mrs Marland: You gave your plant as an example, so let's deal with your plant.

Mr Weare: In our plant, there is a company posting that goes up that deals with the general occupational health and safety committee's reports and sessions, etc. To my knowledge, and I have been involved in this plant for approximately 12 years, I cannot recall ever seeing anything posted anywhere concerning refusals within our plant. As a union, we use our steward body very heavily to get the word around that this has occurred here or this has occurred in such a position.

A problem with this particular accident—and I might remind you that we have had four deaths in our mill in three or four years, three of them union people, two of them from our local, one of them from a sister local and one of them in management—

Mrs Marland: Just to interrupt you for a second: Have all of those deaths had inquests?

Mr Weare: All of them have been inquested.

Mrs Marland: With recommendations?

Mr Weare: Yes. I am telling you that as far as I am concerned and as far as our local is concerned, if Bill 208 does not give us the right to shut down a job, we will do it anyway, because of that incident. I am telling you that there are working people right across this province who are fed up with the pacifying type of safety regulations that go on.

Mrs Marland: Is the company ignoring recommendations from four coroner's inquests?

Mr Weare: No, they are not ignoring the recommendations. The recommendations have all been implemented and placed after the fact. The guy is still dead.

Mrs Marland: So every time there is an inquest, the company complies with the recommendations.

Mr Weare: Oh, yes. They talk a good piece.

Mrs Marland: I can imagine how the rumour factory goes. If I am working at a machine on a shop floor and I decide to refuse to work because in my opinion I am unsafe, and I leave, I can imagine how the rumours go around about why I have left. If there was a requirement in the right-to-refuse-work legislation that made a company publicly post and notify the employees that X employee had refused to work and what his claim was, and that that workplace was declared unsafe until it was investigated, would that be a compromise that might work? At least, would it be better than what you have now?

Mr Weare: I am in a position where I have to say I will not compromise. I feel there is too much intimidation in the workplace as far as the right to refuse unsafe work under Bill 70. We have heard several people this morning state their opinions on that. Brother Wilson spoke about it. I do not feel that the right to refuse on an individual basis is sufficient, because of the intimidation.

Myself, André, Bob, we deal with management on a day-to-day basis. We are not intimidated by that sort of thing, and I think that is what you need: someone who is not intimidated, who is in a position where he is not going to be putting himself in some sort of jeopardy. Although the law says that they cannot be, they feel that they might be, and for that reason a lot of safety issues that do come to the fore are sometimes let slide.

Fortunately, in our plant I think that our health and safety representative, who is a very competent person, over the past year has really done his homework and really worked well and our membership is starting to form up and understand it a lot better than it did in the past. But I still feel that he should have the right to shut down unsafe work.

Mr Mackenzie: Quickly, in the case of the certified worker rep who makes the decision to shut down and then it is found or it is charged that it is frivolous or was not called for, under the bill the penalty is that he can be decertified and he is out for life.

I would like to tie that in to the lack of any frivolous use of the right to refuse that you have had. You had stated earlier, and I think you had also, Mr Foucault, that this just was not a problem in your industry, a frivolous use of the right to refuse. I do not think it was the problem at McDonnell Douglas either, and I know we have people here from that plant this morning, where they had hundreds of orders that just were not carried out and that is what led to 3,000 of them walking out of the plant.

Do you believe that most workers—I am not going to say it would be 100 per cent, but most workers—would risk their certification with a frivolous misuse, in industry generally, let alone your particular industry, if they have this right?

Mr Foucault: I sincerely believe not, for the same reason that the worker who as an individual now has a right to refuse unsafe work has received no training in that regard. He has not been certified to exercise that right. He has been legally granted that right; he exercises or does not exercise it. Unfortunately, he does not exercise it often enough to meet the unsafe conditions which arise in a workplace, in our view. That is why we support the shutdown by certified workers.

But if a certified worker, in addition to the good faith and sincerity that the general workforce has used towards the right to refuse, receives the training and certification, in our view that would even lessen any possibility of frivolity with respect to the use of those rights.

We all tackle our jobs in a serious way. People around this room can take their own way of looking at their responsibilities and transfer that to the workplace in general and that would be a fair assumption. We take our position seriously. It is matter of pride; it is a matter of service to others; it is a matter of credibility, and all of these things come into play. I do not think anybody would want to jeopardize that.

The right to shut down would be viewed just as sacredly as the right to refuse is now. There is no question about it in our minds.

Mr Mackenzie: Would you go so far as to accept the argument that if there is one area where the labour movement is willing to take a responsibility, and I think it has done it with the original bipartite commitment, it is in the safety and health field, and that if we are ever going to break out of some of the stereotype mould of the relationship between business and labour, it has to be with an acceptance of equality in the safety and health field?

Mr Foucault: Absolutely. The word "joint" means equality. It means equal partners in the

field. We want to engage ourselves in internal responsibility, if it is going to be the name of the game, but on a level playing field. We are not going to sit back and prop up management decisions, we are going to sit there and participate fully and make that work on that basis. Certified workers' responsibilities, obligations and functions, as I described earlier, must be there as elements to make that happen.

The Chair: I wish we had more time, because I know and I think most members of the committee know that the forest-related industries are the most dangerous, I believe, in the province, of all industries, I think even including

the mining industry. So we very much appreciate your presence before the committee and the comments you have made to us. Thank you very much.

Mr Foucault: Thank you for your time.

The Chair: That completes the presentations for the morning. We commence again at two o'clock sharp, when the Ontario Natural Gas Association will be before us. I remind members of the subcommittee meeting in room 347 at 1:30.

The committee recessed at 1220.

AFTERNOON SITTING

The committee resumed at 1405 in committee room 1.

The Chair: We have a full agenda this afternoon that will take us through until at least five o'clock, so we should get started, and we will try to stay on time.

The first presentation is from the Ontario Natural Gas Association. Mr Pinnington is here and will introduce himself and his colleagues to the committee.

ONTARIO NATURAL GAS ASSOCIATION

Mr Pinnington: My name is Paul Pinnington. I am the president of the Ontario Natural Gas Association. Accompanying me, to my right, is Ron Munkley. He is chairman of the association's task force on Bill 208. Mr Munkley is also vice-president, systems operation and engineering, for the Consumers' Gas Co here in Toronto. On my left is Ted Greatrix, manager, occupational health and safety, for the Consumers' Gas Co Ltd.

We are pleased to be with you today. Thank you for the opportunity to comment on certain aspects of the Occupational Health and Safety Statute Law Amendment Act, 1989, specifically items that are of concern to the members of the Ontario Natural Gas Association.

On behalf of the members of the association, we have prepared a brief which outlines our position. Copies of the brief have been provided to committee members, to the clerk and to the representative of Hansard. Additional copies of the brief are available for interested parties. With your permission, I will ask Ron Munkley to read the brief, and then we would be pleased to respond to any questions that you and the panel may have upon completion of that reading.

Mr Munkley: We thank you very much for giving us the opportunity to make this presentation. We know that you will be hearing many deputations on the proposed amendments to the occupational health and safety statutes, so we will attempt to be brief and to stay with the issues which we feel are specific or unique to our industry.

The Ontario Natural Gas Association is an industry organization comprising over 300 company and individual members representing transmission and distribution companies, natural gas producers, equipment manufacturers and suppli-

ers, professional organizations, contractors and individuals, all of whom serve Ontario's multibillion-dollar natural gas industry.

The association is the voice for the natural gas industry in Ontario and represents the industry's collective views in public forums. The association's members, of course, fully support measures that will improve safety in the workplace. However, the association has serious concerns about some of the proposed amendments to the act as originally drafted.

The association is opposed to the addition to the act of section 23a, which provides that if a certified member finds that a provision of the act or the regulations is being contravened, the contravention poses a danger or a hazard to a worker and the danger or hazard is such that any delay in controlling it may cause serious risk to a worker, the certified member may direct the employer to stop the specific work or the use of the machine or equipment.

It is the view of the natural gas industry that such extraordinary power is unnecessary and unwise. It is a drastic remedy which places too much power in the hands of one individual and puts at risk companies which have good safety records, which are by far in the majority, in order to control the few that may have poor safety procedures. This power could be subject to abuse, particularly during a period of negotiation, and the disruption of the workplace if such abuses should occur could have a severe economic impact on the province.

Also, the proposed sanctions against a certified member who has given a direction to stop work improperly, negligently or in bad faith are weak. The only recourse the employer has is to file a complaint with the Workplace Health and Safety Agency, and the only sanction the agency has against a certified member who has acted negligently or in bad faith is the permanent decertification of that member.

This proposal to authorize a single certified member to unilaterally stop work perceived to be dangerous is inconsistent, as pointed out by the Minister of Labour (Mr Phillips) on 11 December, in a system that otherwise emphasized partnership and co-operation.

The association supports the minister's request that the committee consider alternative approaches to this issue. The association feels that the answer to protecting workers' safety is to improve training and education, along with the

present individual right of refusal. This, of course, would be accomplished through joint occupational health and safety committees. Alternatively, the association recommends that a formalized consultation procedure be set up whereby a certified worker representative would first consult with the supervisor involved and then, if the situation were not resolved at that point, with a certified management representative. If this does not bring about a satisfactory conclusion, the Ministry of Labour would be called in and the power to stop work invoked if the ministry representative felt it necessary.

Alternatively, again, if the section 23a provision is enacted in its present form, the association requests that natural gas utilities be exempted from its provisions. There are instances where, in the interest of public safety, natural gas employees are required to work in areas that could be deemed unsafe—for example, in the investigation and repair of leaks and in ventilating and evacuating buildings. Workers who may be required to respond in such emergency situations are thoroughly trained in the proper procedures, closely supervised and provided with appropriate personal protective and investigative equipment. Natural gas industry employees, like police and firemen, must not be impeded in their efforts to protect the public. In order to ensure that they are not, we ask that an exemption under section 23 of the act be granted.

Another recommendation endorsed by the association is that nonunionized as well as unionized workers have a place on the board of the Workplace Health and Safety Agency. The original proposal to have labour represented by unionized workers only would effectively disfranchise the more than half of the province's workforce that is not organized and would create an agency that would not be truly representative of the provincial labour force.

In conclusion, we recommend that (a) non-unionized workers be represented on the board by a representative of their choice; (b) no single worker, certified or otherwise, be empowered to issue stop-work orders, and (c) if section 23a is added to the act and certified workers are given that authority, gas utilities be exempted from the provision where such exemptions are in the interest of public safety.

We thank you very much for providing this opportunity to present the views of our industry and the Ontario Natural Gas Association to your committee.

Mrs Marland: We heard this morning a number of times that the reason the right to refuse

work is not working is the intimidation factor on that worker. I am just wondering, where you describe in your second paragraph on page 4 the alternative procedure and you talk about your recommendation for the formalized consultation procedure, etc, whether you think that would remove the intimidation factor.

Mr Munkley: Of course, I should speak not only for the Ontario Natural Gas Association but for the company I work for. In this instance, I will respond by saying that I do not agree with the premise that there is intimidation in all situations and that if in fact there were intimidation, this staged procedure should permit it to be removed.

Mrs Marland: Have you had complaints where people have not wanted to refuse work because they were concerned about intimidation?

Mr Munkley: No, I have not received any myself. Mr Pinnington may wish to add to that.

Mr Pinnington: I am certainly not aware of any such intimidation. I think, in preparing for this presentation today and in internal discussions we had, one very large employer had indicated that it had only had two such refusals to work, in this individual's recollection, in three years. That may be a measure of the occasion of the occurrence, if that is of assistance to you.

Mrs Marland: My final question is, the exemption that you are asking for, is that something you had asked the minister for?

Mr Pinnington: Yes, I believe that is in fact the case. We have made submissions to the ministry on a number of occasions prior to first reading of the bill in the House.

Mrs Marland: What was the response? Did you actually ask for the exemption under section 23 of the act and were you told you would be given it, or were you given an argument about why you should not have it?

Mr Pinnington: No, we were given no such commitment. We had extensive discussion with staff of the ministry, and I think we felt we had some good understanding and good rapport in the discussions we had. We were certainly given no commitments by anyone in the ministry. Certainly their direction to us was that we should appear before this forum, that there would be a full and complete examination and that the recommendation of this forum would certainly influence the final decision.

Mrs Marland: So what you did was in fact a waste of time, asking the ministry staff for it then?

Mr Pinnington: I would not say that at all.

Mr Dietsch: You would like him to say that.

Mr Pinnington: I think it is a useful process. The association spends a great deal of its time in discussion with ministries and we find it useful at all times.

Mrs Marland: In this case the ministry obviously has not listened to you. I would think the exemption you are asking for is something you would know more about than anybody else and I respect that. I think to refer you to the committee, which is directed by the ministry, is a bit of a—anyway, I will not say more.

Mr Pinnington: If I might just elaborate without extending the discussion too long, the principal effort on our part with respect to discussions with the ministry was the question of the ability of one individual to stop work. That was our major concern and that was our major issue to the ministry. I would suggest to you, if you are suggesting that we were unsuccessful, that in fact we felt a significant measure of success in that the minister himself appeared before this committee and offered some suggestions, or asked this committee to consider alternatives, and one of the alternatives, as we have stated, is acceptable to us.

Mrs Marland: It is a very interesting comparison with police and firemen, because obviously your industry is very specialized. It is also an emergency situation when it does occur, and if it is an emergency—I am not talking about normal operations. It is very specialized and it is as specialized as firefighters and policemen. I find your presentation very interesting.

Mr Cureatz: Just as a supplementary, very briefly, along the lines of my colleague, is there a compromise at all available in terms of the possibility of workers having to go into an area that is dangerous? I cannot envision a compromise with the proposed legislation.

Mr Munkley: We do not ask employees to go into a situation that is dangerous. I meant to give the impression that we equip them to assess a situation and ensure that they do not put themselves in a dangerous situation, but they have to be able to assess it so that they can protect the public as well. The wording in the text was—I forget the exact wording—a situation that might be deemed to be unsafe which in fact is not unsafe.

Mr Cureatz: Yes, that is what it says, “deemed” to be. I do not think you have answered the way I would like, but that will be fine.

Mr Dietsch: I want to ask you in relation to some of your comments on page 3 and the comment that was made in regard to the nonunionized representation on the agency. As you are probably aware, the difficulty in terms of bringing together individuals from a nonunionized setting and having an accountability mechanism, which is considerably different than through organized labour. Of course, organized labour has its accountability right back through its main organization. Nonunionized people have a considerably different system to work within. I would like to ask you if you have any suggestions for the committee in terms of how you would see selecting nonunionized individuals to participate in the agency. How in fact would you see them being accountable, to whom?

Mr Munkley: I must acknowledge that most of the companies in our organization are unionized companies. We put that clause in our presentation because a few that are not strongly believe that it should be included.

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We ask the same question. In response, I can only suggest that most nonunionized companies do have employee associations and perhaps the solution would be to solicit from employees' associations nominations for membership on the agency and then have them treated the same way that other members of the agency would be treated.

Mr Dietsch: Just to forward that a little further, would you find that perhaps an individual who would be appointed, I guess by selection of having a number of nonunionized shops, as you say, submit names for selection—I guess the difficulty is, who would they be accountable to? Would you be agreeable to individuals who came from nonunionized shops, in terms of being self-organized within themselves?

Let me give you an example. If an employee were to sit on the agency from Thompson Products Employees' Association in the riding that I represent—it is a shop organization in existence since 1947—would that be acceptable to all those nonunionized shops?

Mr Munkley: I do not think it is prudent for me to comment on the acceptability to labour of the—

Mr Dietsch: No, I meant acceptable to you, not necessarily to labour.

Mr Munkley: It would certainly be acceptable to us. Obviously, those representatives would have an onerous communication responsibility, and they might have to use the media or the

gazette or some other mechanism to communicate.

Mr Dietsch: My last question: I am sure you are aware that there would be a small business advisory committee component of the agency that would put forward those small business concerns, many of which could be from non-unionized sectors. Would that be an acceptable method?

Mr Munkley: It certainly sounds reasonable. One proviso is that many of the nonunionized shops are rather large ones as well.

Miss Martel: Just for the record, this is the second organization that has come here today and said it supported health and safety but wanted to be exempt from this bill. I find that a bit of an interesting line and I wonder how many other groups are going to tell us that.

I would like to concentrate particularly on the right to shut down unsafe work, because you said very specifically it is the view of the natural gas industry that such an extraordinary power is unnecessary and unwise. They are pretty—I would not say harsh words, but self-explanatory. I guess I would like to know, first, a bit more about your reasoning behind why you think this is extraordinary power and, second, why it would be unwise to allow a worker to have that right.

Mr Munkley: First of all, of course we support any upgrades in health and safety legislation, but currently a worker does have a right to refuse to work in a situation that he considers unsafe, and that is perfectly reasonable.

It was mentioned by Mr Pinnington that—well, the large company that he was referring to was ours, in fact. We have only had that happen in two instances. I believe the reason we have only had that happen in two instances is that we have very dynamic and active and proactive joint occupational health and safety organizations and our workers have input into our safe working practices now.

I did refer in the text as well to the fact that for companies with good safety records we felt this was an onerous challenge to give a specified worker the authority to shut down a whole work site.

Miss Martel: You mention that you have had some examples of people exercising their individual rights to refuse. I am wondering if you can tell the committee if you have examples of where this might have been abused in your industry.

Mr Munkley: One of the instances in my company could have been considered an abuse. I do not think it would be prudent to get into the specifics, but it certainly did not result in any undue action against the employee.

The other instance was one where an employee did bring something to our attention that we had not dealt with either from the management side or from the joint occupational health and safety side. It was a very worthwhile situation, but it did not result in the shutdown of a work site. It was an issue that was raised constructively and dealt with constructively without having a whole work site shut down and negatively affecting our corporation and the other workers as well.

Miss Martel: I think the intent of the right to shut down is because management has not acted constructively and has not taken any action to correct the situation, so a worker rep is put in that position. I guess what I do not understand is if you have not found any instances in your industry where the individual right to refuse has been used capriciously, why would the industry assume with the passage of this legislation and the establishment of a certified rep, either management or worker, that people, and that rep in particular, suddenly are going to act irresponsibly and capriciously and start shutting down workplaces for no reason?

Mr Munkley: We are concerned about the expansion of the right of an individual not to put himself in an unsafe situation to shutting down a significantly larger operation than the one he himself was involved in. We think that might lead to abuse because of the larger powers that it, by its own nature, gives.

The Chair: There are no further questions. Mr Pinnington, thank you and your colleagues very much for your presentation to the committee.

Our next presentation is from the Canadian Society for Professional Engineers. Is Mr Smith here, Mr McInroy? Welcome to the committee. Committee members do have a copy of your presentation. We are in your hands.

CANADIAN SOCIETY FOR PROFESSIONAL ENGINEERS

Dr Smith: As president of the Canadian Society for Professional Engineers, I wish to thank the committee for the opportunity to present our views on Bill 208, a bill which we consider an important initiative in meeting today's health and safety demands in the working environment.

I am the president of the CSPE, and I am accompanied by one of our directors, Murray

McInroy, in this respect. For efficiency, I would like to read our submission or a major part of it.

The Canadian Society for Professional Engineers is a voluntary special interest organization for professional engineers who are members of the provincial and territorial regulating bodies in Canada. CSPE was incorporated in Ontario in 1979 with the countenance and assistance of the Association of Professional Engineers of Ontario. The purpose of establishing this autonomous voluntary group was to enable the APEO to abandon its traditional position of serving the dual role of regulating the profession and serving some self-interests of its members.

CSPE is the only group in Ontario which represents the general interests of individual professional engineers in their occupations in the province. The other main groups are the various associations or unions associated with employers and the organization Consulting Engineers of Ontario, representing the business community and voluntary technical societies interested in basically technical issues.

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CSPE was recognized by the three political parties in 1983 and 1984 during the consideration of Bill 123, the Professional Engineers Act, 1984, as the voluntary representative group for engineers' interests. There are over 55,000 members of the Association of Professional Engineers of Ontario. CSPE, as the special interest group for engineers, makes this submission in the interests of those engineers who support our position.

The Canadian Society for Professional Engineers presents this submission to the standing committee on resources development to express our support for enhancing the health and safety of the workplace. We recognize Bill 208 as a legislative initiative aimed at that purpose, and wish to present our views on this important subject. As a representative organization, we are limiting our comments to section 13 of Bill 208 wherein engineers are specifically identified as liable for prosecution and penalties provided for in the Occupational Health and Safety Act.

We believe that Bill 208, section 13, should be seen as an opportunity to improve the health and safety factor in the working environment by an expansion of the requirement for engineering participation. We are aware of the proposed amendment to section 13 in the attachment, and note that it is still limited to liability for prosecution of engineers and architects. We are recommending that section 13 be expanded to include a requirement for the application of the

Professional Engineers Act and that the liability be applied to those who are exempted by the provisions of the Professional Engineers Act itself.

Our recommendations are summarized on page 3. Consistent with the purpose of Bill 208—that is, to enhance the working environment—we recommend that two requirements be included in further consideration and wording. The first is to require any act that constitutes the practice of professional engineering as defined in the Professional Engineers Act which, when applied to the workplace, involves a danger to health and safety, to be performed by or under the professional direction and supervision of the holder or holders of a valid licence, temporary licence, certificate of authorization or limited licence issued by the Association of Professional Engineers of Ontario.

Our second requirement is to require any person who performs an act which constitutes the practice of professional engineering as defined by the Professional Engineers Act, where the person is not prohibited from performing that act by requirement 1 above, to be in violation of the Ontario Health and Safety Act if the act performed when applied to the workplace results in a worker being endangered.

In this way, we feel that two important benefits will accrue, while two important elements are retained. The incentive to use physical and human resources most likely to provide a comfortable, healthy and safe workplace and the continuing integrity of the engineering profession will both be preserved.

The remaining parts of our submission describe, in turn, issues which we feel are important, and I will proceed to look at them in that sense. Looking first at our view of the proposed section 13, we see that both the original section 13 of Bill 208 and the proposed amendment by the Minister of Labour were included without doubt to make engineers and architects more accountable for the services they might apply in the workplace.

While accountability is desired and desirable, we are doubtful that the purpose of improved health and safety would be satisfied by the adoption of section 13 as stated, and we see other drawbacks which should be examined. It is to these ends that we make this presentation.

The first point we wish to make concerns the potential to discourage what we believe is the beneficial role of engineering in our society. The adoption of the proposed section 13 of Bill 208 is

an open invitation to the possibility of evasion of liability, in our view.

Liability can be evaded, for example, by using the services of engineers who are not authorized to practise in Ontario. A common example of this would be the case of a branch of a foreign company using the services of engineers located outside the country. Should a worker be injured as a result there would be no violation under section 13. Similarly, an engineer from another province could give advice, and although qualified technically, would escape liability.

Another route to attempt to avoid liability under section 13 would be to use the services of anyone who is not an engineer. A suspended member of APEO would not be liable under the proposed section 13, for example.

What incentive is there to provide the highest-quality engineering input to the industrial complex when Ontario engineers are singled out in a special way for potential prosecution? If the objective is to provide a safe and healthy workplace, engineers should be encouraged to participate and the lesser qualified encouraged not to exceed their capabilities in the important context of public safety.

Our next point concerns the issue of responsibility. Industry in general is becoming so complex, and health and safety recognized as a deserved right, that the application of engineering expertise with the commitment to the safeguarding of life, health and property should actually be made mandatory where there is a threat to health and safety, in our view.

The current requirements for engineering input under the Occupational Health and Safety Act are limited and could be expanded through section 13 of Bill 208. Our recommendation is presented for precisely that purpose.

Relative to reviewing the issue of professional regulation, it is apparent that section 13 will intrude into the regulation of the engineering profession and probably sets a precedent for diluting its responsibilities, a thing that we believe is a serious act indeed. In this intrusion, it differs from the usual practice when the services of self-regulating professionals are normally identified in statutes, when the role of the professional is typically strengthened or clarified while maintaining the concept of self-regulation in matters of misconduct and discipline.

That is not to say, of course, that professionals cannot be in violation of some statute as participants—quite the contrary—but it is rather to emphasize that it not be used as a substitute for the self-disciplinary process. Once again, it is the

assignment of responsibility to the professional that accomplishes the intended result. It is not the application, we feel, of the deterrent of punishment that is likely to be most effective.

Concerning the general mechanism by which professionalism is important and the notion of professional conduct: Section 13 of Bill 208 displays an insensitivity, in our view, to professional conduct, a behaviour that is recognized, named and described and supported by the Professional Engineers Act.

When individuals or businesses apply for the right to practise engineering, they commit themselves to a code of conduct that is consistent with the responsibilities they assume and is monitored and assessed by their peers.

While this may seem somewhat of a privilege and exotic in some abstracted context, it is truly a system that has worked well in the public interest for a very long time. Paragraph 2(4)4 of the Professional Engineers Act, which reads, "To promote public awareness of the role of the association"—note attachment 2 in this regard—was added for the very purpose of making the public aware of the act and its administration and to dispel any doubts about the APEO being self-serving.

From this perspective, section 13 of Bill 208 embodies a connotation of a lack of trust in the APEO and its authorized practitioners to fulfil their obligations under the enabling legislation.

The assignment of responsibility under section 13 would accomplish the desired result of safety in the workplace and would continue to recognize the Professional Engineers Act as an important public interest statute, and in that sense our recommended changes would be made.

Presently, as well, there is perhaps an unconscious degree of selectivity in the specifications as they appear in section 13. In particular, the provision of engineering services on the Professional Engineers Act is authorized in more than a single way. There are five. There is the holder of a licence, the holder of a temporary licence, the holder of a limited licence, the holder of a certificate of authorization and those persons given special exemption by the APEO.

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Section 13, as proposed, would appear to encompass classes 1 and 2 only, with the remainder either excluded or at least doubtful. Here again, a statement of responsibility of those authorized to practise would extend the liability to all those who have the legitimate right to practise under the Professional Engineers Act.

We feel that this would indeed be a useful clarification.

As well, there is a potential issue of harassment, although we do not want to emphasize it and it is not entirely a positive view, obviously. There exists in our minds the possibility that section 13 might be used in this respect; that is, in a harassing way.

The medical profession, although not specifically identified for penalties under the federal abortion bill, for example, is still concerned that it may be unfairly dealt with merely because of its professional involvement.

Finally, in terms of the details that we wish to expand upon specifically is the commentary on penalties. The most severe penalty the licensee or engineering business presently faces is a loss of authorization to practise. This is a very serious point. It means the abandonment of a career, either temporarily or for ever—a career for which the practitioner has used many years to prepare.

Therefore, a fine or imprisonment likely to be imposed is anticlimactic in a way. It is usual practice that penalties, on the other hand, are imposed to ensure that the law will be obeyed and that there is no significant benefit in disregarding the law. We do not feel that either of these apply directly to the engineer in this or other contexts.

The record of the APEO in regulating the profession, for example, does not indicate the need to impose additional penalties on the engineers when acting in a professional capacity. For example, in 1989 only four members of the APEO were disciplined, as reported in the official journal of the APEO.

Attachment 4, as a further example, is an example of headlines from Toronto papers. Perhaps that is attachment 3; my apologies. It is a sampling of headlines from Toronto papers reporting accidents, some fatal. As far as we know, as far as the information that is publicly available, no person or business authorized to practise professional engineering was found negligent or incompetent in a professional capacity. That is indeed an enviable record, indicating that the liability of section 13 may possibly be, or is, unwarranted.

In conclusion then we consider section 13 of Bill 208, as proposed, to be broad in scope but limited in application; lacking, from our view, in defined responsibility; impacting on professional regulation, and yet discouraging the application of engineering expertise where it clearly belongs and is needed in the workplace.

We believe that the recommendations we propose and that were summarized earlier on

page 3 would support the purpose of Bill 208, giving workers a healthier and safer environment in which to pursue their careers.

Finally, at last we must emphasize that we wish to emphasize this recommendation on page 3 and, in summary, to interpret it as our view of the need to enact legislation which recognizes the intrinsic relevance to health and safety of the professional engineer in his normal attitudes and actions.

The Chair: I had one question for you. You had some correspondence with Mr Phillips concerning section 13 of the bill.

Dr Smith: Yes.

The Chair: As a matter of fact, it was Mr McInroy who corresponded. Did Mr Phillips's response smooth your feathers? Do you feel satisfied by his assurances? I guess maybe you do not, or you would not be making the presentation. Is there some reason that his assurances were not satisfactory to you?

Mr McInroy: No. Initially we actually wrote to Mr Sorbara when he was minister and pointed out that we thought there was double jeopardy in the original version of section 13. We also went on to say that we would have preferred that section 13 assign some responsibility to engineers and then decide what the penalty should be after that. We got a response to that saying that section 13 was in there to—I forget how it was worded—strengthen, I think they said, the health and safety of the workers in the form of this penalty.

Then this is a further letter where we asked if there were going to be any amendments to section 13. You will remember that the minister, Mr Phillips, put out a press package, I guess you would call it, and he described amendments that were being proposed at that time. We went back and asked again, "Will there be any amendments to section 13?" This was the response we got. All that did was to say, as we see it, "We've cleared up that point about double jeopardy," and we agree with that. We agree that is not an issue any longer, but we think that just imposing a penalty under section 13 is not really getting at the purpose of Bill 208, which is to improve the safety of the workplace.

Miss Martel: Mr Chairman, may I raise a point of order at this point, since you have referred to that particular letter? I apologize to our presenters; it will just take a moment.

It seems to me as I read the letter that when he talked about the modification, the minister spelled out quite clearly, in my mind, a proposed

amendment. It follows after section 13, page 14 of the bill we are dealing with. I do not recall that this committee ever received either this amendment or any package of proposed amendments, yet it looks as if they are out and about, at least in the minister's office, and I would like to know why it is that we do not have either this proposed amendment or any other amendment that might have already been drafted with regard to this bill by the minister.

The Chair: I cannot answer that question. I do not know about the parliamentary assistant to the minister. Do you wish to respond, Mr Dietsch?

Mr Dietsch: I think it is clear that the concerns that have been put forward by the engineers are being reviewed by the minister, and as such, any amendments that would come to the bill would be forwarded to this committee at the same time as we start going through our clause-by-clause and dealing with areas in the bill.

Miss Martel: If we are going to have other presenters come before us with similar information from the ministry, that certainly gives them an advantage over us, and I do not mind that, but I suggest that if this committee is going to do any work and there are amendments that people are going to be dealing with, we should have them now so that people can respond to them and we can question them.

Mr Dietsch: There is no amendment tabled with respect to this particular item at this time. I think that is the point that I just made.

The Chair: The wording in the letter states that "modifications to the wording of section 13 have been proposed along the following lines." It reads as though there is going to be an amendment like that. It does not specifically say there is an amendment. I think that if the ministry does have an amendment in place, it would be helpful to the committee if the committee had it.

Mr Dietsch: I will take it under advisement.

The Chair: Thank you.

Dr Smith: I would like to apologize for introducing this. It was done of course in the context of presenting the fact that we have been interested in this for some long time. My apologies for producing a set of questions that was not intended.

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Miss Martel: Thank you for doing that; no problem.

The Chair: Thank you, Dr Smith and Mr McNroy, for your presentation.

Mr Mackenzie: Before we proceed, can I ask, through the parliamentary assistant, whether we can find out how many other groups have got letters that raise suggested amendments in the letters that do not correspond to the bill we are here dealing with here and whether we could be informed before we proceed much further in this committee?

Mr Dietsch: I indicated that I would take it under advisement and I will get back to you.

Mr Mackenzie: It looks as if the bill has already been redrafted.

The Chair: The next presentation is from Stelco Inc. Mr Telmer is here, and Mr Belch and Ms Stewart. I think we are moving into the high-tech era with this presentation, with slides.

Mr Carrothers: Quasi-high-tech; we never seem to get these operating.

The Chair: That is true.

We welcome you to the committee and look forward to your presentation. Do you wish to have your slide presentation early on or later on?

STELCO INC

Mr Telmer: First of all, thank you for the opportunity to appear. Rather than read to the committee the presentation we have prepared, I thought it would be more expeditious if I could present it to the committee. I believe it has now been distributed. There are certain slides that tie in with the presentation itself; they are really charts. They are attached to the back of the presentation so you can either look at the screen—I am using this as a visual aid to allow us to expound on a few of the points in the presentation—or you might wish to refer to the charts in the back of the presentation itself. As I say, I am not going to read the presentation. I will comment on the presentation by way of the slides themselves.

I would like to put the company into perspective. We feel that the nature of Stelco, which as you see from the first slide is broken into three parts, really provides us with a unique opportunity to comment on Bill 208 as it relates to the act, in that we are a company that is representative of a heavy industrial base, which is our steel division as you see on the left-hand side, Stelco Steel. At the same time we also have a number of secondary manufacturing businesses in our secondary manufacturing arm, which is Stelco Enterprises. So we can in effect bring the perspective of a large industrial corporation as well as a smaller one, almost a small business kind of organization.

We are a Canadian corporation. We have 16,000 people overall in Canada. Of the 16,000, 13,800 are located here in Ontario. Of the total of 16,000, 12,000 are in the steel division. The balance is distributed between Stelco Inc, which is the holding company, and Stelco Enterprises. We have 11 plants that would be of the smaller nature in Ontario and two large plants that are the two basic steel manufacturing facilities themselves.

Let me say at the outset that Stelco supports the general thrust of Bill 208. We have said this on a number of occasions, when the bill was first introduced and have continued to maintain that position. There are a number of areas in the bill that we have some concerns about and we would like to address those today. They are specifically the makeup and the function of the agency. We would like to offer our comments on the certified worker concept and we would like to make some comments with respect to the stop-work provisions in the bill.

First of all, I think it would be appropriate if we were to introduce to the committee how we look upon the managing of our business, which is really our values, and focus attention on the safety we have in our organization, which we feel again allows us to make this presentation before this committee.

Our management philosophy is really made up of those six bullets you see on the screen. You will notice that at the top of the list is "health and safety." We have as our number one priority in our organization the health and safety of our employees. Closely followed behind that is the word "environment." We feel that the environment is almost of equal importance, but if we had to choose one over the other we feel health and safety is first. Those two obviously are very closely tied together. Our third priority is facilities. What we mean by the word "facilities" is the keeping of those facilities current, keeping them up to date from the perspective of technological advancements.

At this point I would like to say that our overall philosophy is that if we do not pay attention to those first three priorities, we do not feel the second three really have a lot of merit in the longer term, because unless you do those first three you are not going to be in business.

Our mission statement for the corporation includes specific reference to the health and safety of our employees. We also have a special safety and environment committee of our board of directors. We believe this is unique. There may be other companies that have followed this,

but we were certainly one of the first to do this. In this way we bring the full attention of the entire corporation on that particular priority, that of health and safety and environment.

With respect to the agency, if I could move to this part of our presentation, we believe that the role of the agency should be to support the internal responsibility system. The minister in his speech to the Legislature—I am talking about the current Minister of Labour (Mr Phillips)—stressed the internal responsibility system and suggested that the bill and the act should enhance this system wherever possible. We support this.

We look upon the role of the agency as being an umbrella organization. By that we mean that it should function as an overall organization to guide and provide specific direction to the safety associations. We believe its function should be directed at the policy level and the guideline level rather than at the day-to-day working level. The day-to-day working level in our opinion should be undertaken by the associations themselves.

Under the provisions of Bill 208 there will be some significant numbers of organizations, and therefore employees, who will be covered under the act who have not previously been subjected to it. We believe that those people who have not had the experience will need to have a source they can go to in order to understand what their obligations are and therefore conduct their workplace in a safe and healthy manner. Therefore, the onus on the agency to provide this kind of direction through the associations, we believe, is paramount.

We believe the specific control of the hazards in the workplace must remain not at the agency level but rather at the shop floor level. Therefore, the onus has to be on training and providing guidelines rather than on specific involvement in the workplace itself.

With respect to the structure—as I say, first of all, the umbrella organization which was on the previous slide—there are some, as we understand it, 20,000 workplaces that will be covered by the new legislation that have had largely no previous experience. These workplaces will not in our opinion fall into the current matrix of the safety associations that are in existence now, but rather will need to have some expansion of their numbers in order to properly cover these new types of businesses that do not fit into the pigeonholes we currently have.

In the past there have been a number of cases of pigeonholing of some of the organizations into associations such as the Industrial Accident Prevention Association. As we move to cover

more people and organizations in the office environment who are associated with data processing, communications and so forth, we believe there needs to be an examination of this and a broadening of the associations themselves.

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These associations will need to have a structure that will allow them to function properly and we believe that is where the role of the overall agency will come into place, in providing the guidelines and ensuring that the training is mandated and is made available to these new organizations being subjected to the act.

We believe that the associations' composition—I am not talking about the agency now; I am talking about the individual safety associations—should be representative of the kinds of activities and therefore the employees of those companies that make up that particular association.

With respect to the responsibilities of the agency—I said this a couple of times and I am going to say it again—it should ensure that the training is available and being developed so it can be used by the individual safety associations. The agency should also be responsible for certification of the people who have been trained, ensuring that the standards that are being maintained are consistent. The agency should also monitor safety performance, and in this sense we believe that the easiest way, the most practical way, is to use the infrastructure that is already in place, and that is to use the Workers' Compensation Board rate group statistics.

We believe that by taking this approach we can then allow the safety associations, under the guidance of the agency, to really focus on where the problems are, so that where an organization—a company, in other words—has a good performance, there is really no need in our opinion, providing it follows the guidelines that have been established and is properly monitored under the system, to continually interfere with it. We can then utilize the resources, and the resources are scarce, to focus on the performers that are not living up to the standards being developed and are not living up to the standards in their particular rate group.

The structure of the board: We support the structure as it is now being suggested. We believe that by using the cabinet appointment concept we can have the proper people on the overall agency representing the workplace. I know there have been some concerns expressed about the neutral chair, but we believe that the neutral chair can function in a way that will

obviate the concerns of the parties at the same time as the neutral chair can expedite some of the activities of the agency itself. You do need, on most committees, to have a chairman, and the chairman has to move the process along.

We think the concern about the impartiality of the neutral chair can be overcome, and this is in our presentation, by having the appointment of the chair a cabinet appointment but have it ratified by the two parties to the agency itself; in other words, from the workers or labour side and also from the management or company side.

We have a concern about the vice-chairs. The understanding is that the vice-chairs are contemplated as being full-time. Our concern quite simply is that if the vice-chairs are to represent their constituencies and at the same time they become full-time employees of the crown, we feel that very quickly they will lose touch with their constituencies, particularly if they are expected to serve a two- or three-year appointment as a minimum.

We believe that the implementation of the part-time members of the board, representing the workers and industry, is the proper way to go in that they can be in touch, as they would still be associated with their respective constituencies. We also are very much in support of the use of health care professionals, as we believe this will bring a realistic sense to the discussions. If the agency is talking about items that it would like to proceed with, we believe that the professionals can really say whether there is anything dramatically wrong with that and it can be fixed before it gets too far down the road.

We also feel that the appointments should not necessarily be restricted to those who have been initially nominated. We feel that the cabinet should use the nominations, obviously as a primary source for the appointments, but it should also have the right to go beyond that in the event that there are better people suited to serve on the agency than were nominated.

With respect to certified workers, we believe that the term "certified"—and we are looking at this perhaps a little differently from other people—really relates to the training necessary in order to participate on a joint health and safety committee. We feel that the certified worker should receive the training which is mandated by the agency in order that he represent either the management side and/or the worker side, and that training would be determined by the agency itself. We are most concerned that the certified worker, in performing his function, not end up as

a referee. We feel that the referee role in effect undermines the internal responsibility system.

We feel that the focus of the joint health and safety committees and the certified workers and the certified employees on these things should be on injury prevention and hazard elimination and that, in so doing, they should maintain the premise that everyone remains responsible for his safety and, again, in keeping with the overall approach, maintains the integrity of the internal responsibility system.

As an example, at our main plant in Hamilton, at the Hilton works, in order to ensure that the members of the health and safety committee are properly trained, we use the 40-hour general Ontario Federation of Labour level 1 training program. We have looked around and we feel that this is the best program that is available, and to date we have put 1,097 employees through it. We have a joint health and safety organization that encompasses 800 people. We intend to continue this level of training. Hopefully at some point we will have all of our people exposed to this particular level. This is a very extensive program.

With respect to the stop-work provisions, we believe that the workers currently have the right under the act to refuse work and that they should continue to have that right and, under the internal responsibility system, be responsible to ensure that they are not exposing themselves to undue hazards. We think that to take the stop-work provisions out of the employees' hands and to put them into some neutral corner in effect erodes the internal responsibility system. The IRS, and we keep saying this, is needed in order to make this process work.

In our situation we have a main plant that has 9,000 employees in it. We have situations that arise where an employee feels it is unsafe for him to work and we stop the job. We use the joint health and safety committee to investigate and we take the approach that the way to handle this is to have the joint health and safety committee look at it and to understand what the problem is. Once that has been resolved, if we require the services of the Ministry of Labour, it is called. This is a joint decision. In the event that there is a problem, the ministry itself is the vehicle which will decide ultimately whether there is a specific problem that requires a ministerial order.

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In 1989 in this plant of 9,000 people we had seven refusals. In six there were no directives involved. In 1987 we had 23, so obviously in our opinion the system is working and it is this

internal responsibility system. We had one last Friday when employees were concerned in one of our pickle line operations. We stopped the operation when the issue was raised. We investigated. There was a joint resolution.

The ministry was brought in just to ensure in this particular case that there was not a problem. There was no directive issued. So we feel that this system, in an organization where the individuals have been properly trained, does work. The individuals are able to look at the hazards and they are able, using the internal responsibility system, to stand up for their rights.

There is a concern about intimidation. I understand that. We feel that we do not have that because we do involve the two sides. We would suggest in order to ensure that in organizations which do not follow such an activity that there is a solution without undermining the internal responsibility system, that is, to use the current approach which is used when a ministerial order is issued and the penalties associated with not following such an order.

We think it is a little bit like the Reduce Impaired Driving Everywhere program, and that is the reference to the RIDE program you will see in the text. The RIDE program in this province works. We have seen the statistics. It is because of two things. First, there is a concern about what happens if I get caught; second, and we think this is equally if not more important, there is an awareness that has developed with the publicity surrounding this which we say is really akin to the training where people do understand what the risks are.

By having this program sitting there and by having the penalty, if you like, which is losing your licence or in this case the penalties associated with refusing a ministerial order, we feel that you can overcome some of the concerns about the stop-work. Leave it in the hands of the worker, protect his fear of retribution and maintain the internal responsibility system.

I would like to comment just to give you a feel for the structure at our basic plant. The chart on the board outlines the health and safety committee structure in our plant. In this organization we have an equal number of representatives from both sides, from the union side, the workers side and the management side. In total it amounts to 800 people. This is a very large, complex kind of structure; however, when you break it down to the individual departments, it works.

Finally, to give you an idea in an organization like this of what it takes to run such a program, it is not cheap. It is not cheap in the moneys that

you have to put out, but we really believe that if you do work hard at it, you do get those moneys back because you have a safer environment in which you work. In 1989 we had 19 per cent fewer accidents at Hilton works than we did in 1988, and in 1988 our record was not all that bad.

That concludes my remarks. The specifics relating to the slides, as I say, are in the presentation itself. Copies of the slides are attached to the back. We also have in the presentation some specific language that comes out of our labour agreement which puts into more detail the health and safety structure which exists in our operation. Thank you very much.

The Chair: One short question: When you were talking about the stop-work provisions of the bill you indicated that you liked the idea of the internal responsibility system having two sides to it, labour and management, to resolve matters. At the same time, you were supporting the concept of a neutral chair for the health and safety agency. I am wondering if there is not a lack of consistency in those two positions.

Mr Telmer: I think what I said about the agency was that we felt a neutral chair who was agreed to between the parties as to who it was would in effect allow the agency itself to work in a more expeditious fashion without undermining the basic representation of the two parties. In other words, you do not take away the benefits of the bipartite approach to the agency, but you do have the ability to get on with it by having this focal point for the agency itself.

Relating that to the stop-work provisions, and I think there is a similarity, in effect what we do where we have an instance is that we do involve the two sides of the equation, which is the joint health and safety committee, and the word "joint" implies that both parties are involved who perform the investigation.

In the event that we are unable to resolve and we have a difference of opinion, in effect we have a neutral chair, if you like, in the form of the ministry, which is then able to be called upon to resolve the difference and to try to bring the parties together. Based on the record that I mentioned, I would suggest that it is working.

The Chair: I do not see other members with their hands up, so I will go on. This committee sat and held hearings—not all the same members as are here now—on safety in the mines a couple of years ago. I know you have some interest in the mining industry too.

We had hearings all across the province and a big debate on the committee was the internal responsibility system, and it was not without a lot

of soul-searching. That committee, I think, worked very hard and did a good job on it. After a lot of soul-searching by all members, the committee came down foursquare on the side of the internal responsibility system, as opposed to an alternative which implies a lot of inspectors and so forth out there.

Members are now looking at this particular bill, and I think that is prompting a lot of the questions, a lot of the concern, not just by members of the committee but by the labour movement and so forth, that the internal responsibility system is the only real model that can work out there in any kind of practical way. Without speaking for all members of the committee, that is why I think there is a lot of concern about moving to the third party, namely, the neutral chair of the health and safety agency. It hits the principle that is embodied in the internal responsibility system, which means the two sides.

Mr Telmer: I understand what you are saying. Based on the way I just described it, I really do not see that you have a conflict. I think that the agency can provide a very meaningful role in achieving the objectives of the bill by providing the direction to the safety associations themselves and what I would suggest should be an expanded form to cover the increased number of workplaces.

If they do have differences, the neutral chair, if he is truly neutral, and I would suggest that the selection process has the means to ensure that, really should be able to bring the parties together to resolve those differences. In effect, that is what the ministry does when we have a situation inside one of our plants.

Mr Mackenzie: Just one question: I was wondering, Mr Telmer, if you can give us some idea at Stelco of the extent that you feel you have had frivolous misuse of the right to refuse in that operation. Is it a major problem at Stelco?

Mr Telmer: No. I think the approach that we have been using, that where there is a refusal, there is an investigation—I believe that the relationship between the parties is such that it is looked upon seriously, that the two sides resolve the issue. I think if you have that kind of relationship, frivolity, if it is there, at some point tends to disappear, and that has been our experience.

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Mr Dietsch: Recognizing that your group at Stelco certainly has an extensive organization with joint health and safety committees through-

out your whole division operation, first of all, I would compliment you because certainly Stelco has taken a very serious approach to health and safety. I think those kinds of model management scenarios are important out there.

I would like to direct my question in terms of the areas that the joint health and safety committee recognizes as potentially dangerous situations by virtue of their inspections of the workplace. How are they handled in Stelco?

Mr Telmer: You will see some specifics of how the process works, but we have regular meetings at the department level. There is a structure that works up through the plant to the head of the plant itself, to the general works manager, and each one of these levels has an equivalent on the side of the union. There are regular tours of the facility identifying issues, and coming out of these meetings, obviously the issues that are being addressed in them relate to the operation of the plant, and if there are hazards, how they might be corrected. I think we have the process of notifying each other, if you like, of issues in dealing with those things.

Mr Dietsch: The reason I asked the question, and perhaps I should have prefaced it before I asked it, was that in many of the workplaces out in Ontario, the concern is that because of the lack of inspection of workplaces by joint health and safety committees, there will be an overzealous approach, if you will, to stopping unsafe conditions.

The reason I posed my question the way I did was that it is my view, from my experience in a scenario comparable to your own with very active joint health and safety committees, that those inspections in fact turn up a lot of areas whereby modifications are made to those particular workplaces in order to head off, if you will, potential accidents and injuries in the workplace. Would you agree with that approach?

Mr Telmer: I think so. If you are going around on a joint basis and you are looking at the operations—and in a place like ours things are always changing—I think it provides an opportunity for the two sides to discuss it. The secret of it is understanding what they are looking for. This is why we stress training so heavily.

I think the other component of this is—I guess the word is “maturity.” Once the committee structure has been in place for a while, and if the people are trained and they have been at it for some time, they may start off being overly zealous to begin with, but we find that as it has been operating for some time, the thing becomes fairly responsible. You can therefore say to

people who are concerned about the way the thing starts up, “If you let it run a little bit and you put some trust in it, we think it works.”

The Chair: Your final short question, Miss Martel.

Miss Martel: It goes back to something Mr Mackenzie was talking about. In your response to him, you stated that there had not been an abuse of individual rights to refuse and you spent a great deal of time, as I was reading through the document, talking about how well the joint health and safety committees were working at Hilton works within the context of the internal responsibility system.

By the same token, on page 10, you seem to indicate that if we go one step further and we put certified workers in place and give those certified management and worker reps the right to shut down an unsafe workplace, you are going to create a system of referees who will act outside the joint health and safety committee, thereby undermining the internal responsibility system.

I guess I am at a loss to figure out how you get to that point, how you come to that conclusion. You have said there has not been an abuse. You said your joint health and safety committees work well. It seems to me that under the act the certified representatives have to come off the joint health and safety committees, which are already working well in your plant. How is it that with the passage of certified representatives and the right to shut down unsafe work, those people are all going to start acting irresponsibly on both sides of the equation?

Mr Telmer: I think the reference we have here and the way we have used the term “certified” relates to the need to have properly trained people who will be on the joint health and safety committee. I think the concept that was suggested by Bill 208 was that you end up with the term “certified worker.” You end up putting in place sort of another level between the employee and the hazard, the employee and the supervisor, where you give the responsibility to a third party, if you like.

Our concern is that by saying that the authority, in deciding how the workplace will be run, is with a specific individual as opposed to using the joint health and safety structure as I have described it in our facility, you end up with, “I cannot make the decision; therefore I am going to leave it up to the referee.” Once you do that, you undermine, in our opinion, the internal responsibility system because you take it away from the individual, who has to decide whether or not and identify—and this is really the

concern—the hazard and feel that he can deal with it and not be intimidated; the worker himself. He has to have the responsibility for his own health and safety. If he does not accept that, your accident rate is going to go up. We feel that, as it was described, the certified worker concept really does not enhance that but rather detracts from it.

Miss Martel: I suppose the worker would like to have responsibility. The problem is, if management does not want to change an unsafe workplace, the worker does not have a whole hell of a right.

Mr Telmer: Then I have already suggested that you can use the ministerial order approach in order to ensure that if the company does not abide by that, it is in trouble. This is the RIDE program analogy that I used.

Miss Martel: But you have tried to say that the bottom line for you is using the internal responsibility system. If you have the Ministry of Labour in there all the time acting as the referee, surely you are not putting into place any better type of system. The idea is to have the two workplace parties deal with any—

Mr Telmer: Seven times, with a plant of 9,000 people, in a year. I would not say we have the Ministry of Labour in there all the time. As a matter of fact, I think the system is working for us and we do not have to rely on the ministry in order to resolve these things. As I have said, in the seven instances in 1989, six of them were resolved by the system and we only had one where the Ministry of Labour was required to resolve the dispute.

Miss Martel: Why would that kind of good record change merely by having certified workers? There are not only worker representatives, there are employer representatives too. I do not think you have suggested your employer representatives are going to be abusing that.

The Chair: I am sorry, I am going to call this to a halt because we are already over time and we do not want to start that with one group and not another. So thank you, Mr Telmer, you and your colleagues, for coming before the committee.

Our next presentation is from the United Electrical, Radio and Machine Workers of Canada. Mr Barry is here. We welcome you to the committee. Please introduce yourself and your colleague and we will proceed.

UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF CANADA

Mr Barry: I am Dick Barry, president of the United Electrical Workers. My colleague is Kim

Perrotta, who is our health and safety specialist on the national staff of the union.

We are here today to speak on behalf of our membership in Ontario, some 12,500 members of the United Electrical, Radio and Machine Workers of Canada. Our members primarily work in manufacturing plants, service shops and offices in more than 80 different establishments and for more than 70 different companies. Those companies employ as few as 14 people and some as many as 1,600.

We have a prime concern on the issue of health and safety. The current legislation has been in place since 1979. I can recall working in the workplace when the health and safety committees were handpicked by the employer and dependent upon his budgetary restraints. Any issue that was raised in a health and safety committee meeting got dealt with on the basis of budget, not on the basis of need.

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The current legislation requires some changes. While we desperately need changes, we do not see Bill 208 in its current form being able to address them. As I have said, we have lived for 11 years with the current legislation and it has not protected our members from occupational death, disability or disease. Among our members, we have statistics of those with debilitating back strains, tendinitis, carpal tunnel syndrome. We have had workers electrocuted. We have had workers run over by railway trains. We have had the normal fingers and arms and hands lost in punch press operations and on cutting tables. We have had workers blinded. We have had workers who have suffered from cancer. What I am saying is that we have run the gamut.

Currently, the workers in this province have neither the power to protect themselves nor an enforcement system that will protect them. Companies in Ontario are not charged for breaking health and safety law; they are scolded, warned and occasionally they have orders issued against them, but as a rule they are not prosecuted or fined when they are found out of compliance with the law. They are given second, third and fourth chances to clean up their act without penalty. It seems that they face prosecution only when the inevitable accident happens after a worker has lost a leg, or worse, his life. Then employers receive paltry fines, \$3,518 on average in the industrial sector in 1987-88.

The previous presenter alluded to the RIDE program that the government put in place. Our view is, if this government and the employers viewed health and safety with the same diligence

as they viewed cleaning up drinking and driving and the carnage on our highways, then we would be taking a big step towards cleaning up the workplaces in which we all work. But in fact the ministry has increasingly abdicated responsibility for enforcement of health and safety. What it has relied upon is an internal responsibility system. There is nothing in the legislation which obliges employers to act on ideas or concerns of workers' representatives, and there is nothing in the legislation granting workers' representatives the power to act for protection of their co-workers. Our members have grown more and more frustrated by employers who refuse to listen to legitimate concerns and concrete proposals.

At Pre Fab/Vitafoam Products in Toronto, as an example, the company has illegally withheld the inspector's report from our members on several occasions. It took a visit from the ministry's regional manager and a ministry-issued order before company officials would distribute the report. On one occasion, the company representative actually told the inspector that he had given the report to one of our members when he had not. At another point, this company unilaterally cancelled a series of monthly committee meetings only one year after Minister Wrye had issued a special order requiring monthly meetings in this plant. Less than a year ago, a company official from the same company threatened one of our health and safety representatives with discipline and removal from his position as a safety representative for checking on the extent of a fire on one side of the plant and there were five fire trucks outside.

The Pre Fab/Vitafoam plant is not alone in its abuse of the internal responsibility system. A survey conducted by the minister's own advisory council actually documented violations of the health and safety legislation in 78 per cent of the workplaces surveyed, and yet the Liberal government has increasingly relied upon the internal responsibility system as a replacement for enforcement. Our members need more authority to act on the shop floor, and they need the backing of an effective enforcement system. While Bill 208 represents a step in the right direction, in our view it falls far short of addressing the root problems that plague our health and safety system. It does far too little to correct the weaknesses in the internal responsibility system while doing nothing to improve the enforcement system.

The amendments proposed last October by Minister Gerry Phillips would gut Bill 208 of its few progressive elements. The concept of

supplementing an external enforcement system with an internal enforcement system is absolutely sound; however, both players in the internal system must be given the authority and the power to carry out their responsibilities.

The right to refuse must be strengthened and expanded. Workers in the public sector, denied the right to refuse for the past 11 years, must be given that right. Employers should not be allowed to reassign a refused job until it has been declared safe by the worker representative or a ministry inspector.

Under the current economic conditions—I was at a membership meeting last Thursday in a Stelco plant in Welland where the workers, through intimidation, for fear of that plant closing down, were discussing Bill 208, were discussing these hearings. They indicated to us that they were afraid to refuse a job because they may then encourage that employer to use intimidation against them, to threaten to close the plant. It is that type of intimidation that we feel the employers must be prosecuted and fined for, threatening, intimidating or penalizing workers who legitimately exercise their rights to refuse. Our members have been suspended, sent home without pay and assigned to the worst jobs in the plant for weeks at a time for refusing unsafe work. While section 24 prohibits intimidation, it imposes no penalty on employers who use it.

Workers' rights to refuse ergonomically dangerous jobs as well must be maintained and strengthened. In his October proposals, the minister suggested that the right to refuse unsafe activities should be limited to those situations that are immediately dangerous. Repetitive strain injuries, as an example, caused by poorly designed workstations, tools and tasks, are on the increase. At the present time, where we have been able to prove that repetitive work was harming workers, work refusals have been upheld by the ministry and improvement orders issued. Worker health and safety representatives must have an effective and protected right to unilaterally stop dangerous work in their workplaces. No group of workers should be exempted or excluded from the right to stop work. The right to stop work should be given to a worker representative in every workplace.

While Bill 208 introduces the concept of a right to stop work, it denies the right to large classes of workers, as an example, public sector workers and those people working in workplaces with less than 20 workers. By limiting certified members to those construction projects involving more than 50 workers and which last more than

six months, 70 per cent to 80 per cent of construction workers in this province would be denied this protection as well. Certified work members must have the right to stop work where they have reason to believe that the health and safety of another worker is in immediate peril.

The agency responsible for overseeing the development of training materials and the setting of certification criteria should not become involved in the adjudication process of hearing complaints against certified members. As Bill 208 is drafted now, a certified member would be placed in an impossible position, being asked to assume responsibility for enforcing legislation on the one hand, while being threatened with decertification for life and court action for mistakes on the other. The right to stop work must be the unilateral right of a certified committee member or worker health and safety representative. To suggest, as the minister has, that agreement should be reached between certified members representing workers and employers before the right to stop work is used is to totally deny the realities of the workplace. The problem occurs when the parties do not agree.

Workers must be paid for all work affected by work refusals, shutdowns or stop-work orders. Workers should not be placed in the position of choosing between their health and their wages. If their employers choose to cut corners on the designs, inspections and maintenance programs required to prevent accidents, their employers should be forced to pay the costs when those strategies backfire.

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Worker health and safety representatives should have the authority to issue provisional orders, as workers in Australia do. These orders would be particularly helpful for ergonomic concerns. In Emerson Electric in Napanee, for example, the ministry's ergonomic specialists documented a 20 per cent injury rate among the 84 women working in the winding department, yet we could not get the employer representatives to discuss the issue with us.

The one thing upon which we all agree is the need for more and better training on health and safety for supervisors, workers, managers and health and safety representatives from both sides of the table.

A bipartite agency, in which labour and employers are equally represented, must identify the training needs of workers, supervisors, health and safety representatives and certified members, and oversee the development and delivery of the educational packages needed to meet those

needs. While we recognize the need to work with employers on decisions affecting health and safety training and research, we also believe it is essential to maintain some independence on course development and instruction as well.

The labour-controlled training centre should produce courses and training programs that develop workers so that they can effectively represent their co-workers in the workplace, on the boards of safety associations and on regulation-setting committees. The recommendation by the minister last October that employer associations be allowed to select the workers who represent labour on their boards threatens to undermine this process entirely.

A solid external enforcement system is required to ensure that a socially acceptable minimum standard of health and safety is provided in an equitable fashion to workers across this province.

We would like to see a schedule of administrative penalties developed for those violations committed by employers. This schedule would incorporate a sliding scale in which the seriousness of the violation, a past history of violations and the speed of compliance are all reflected in the level of the fine.

We need a truly independent appeal system with which to challenge ministry decisions. Their decisions do not have the appearance of independence or neutrality to us.

In General Electric in Peterborough we appealed the ministry's decision to repeal an order issued under section 139 of the industrial regulations. We were able to provide ample evidence in support of the need for showers for those workers. Despite the strong evidence in support of our case, the ministry's director of appeals upheld the ministry's decision. We would propose that appeals be handled by an independent health and safety appeals board in which seven individuals approved by both labour and employers act as arbitrators, to be selected by the party launching the appeal.

In our view, farm workers must come under this act.

In conclusion, we need a piece of legislation that does two things: (1) strengthens the internal responsibility system by giving workers and their representatives the power to be heard and the power to act in their workplaces, and (2) improves the external enforcement system by giving inspectors the power to fine employers who neglect their legal duties, responsibilities and obligations, while providing an independent

appeal system through which legitimate complaints can be fairly evaluated.

That concludes our presentation and we would welcome any questions.

Miss Martel: I have a question actually for Mrs Perrotta, if she does not mind relating a case to this committee. Before the House recessed, we had the minister in. We were going through some of the changes and we dealt in particular with the question of work activity. We had been given a case by Linda Jolley, a case of one of your workers, in fact, who had won her case concerning repetitive motion or repetitive strain through the Ministry of Labour.

What we tried to argue, my colleague and I, at that point, was that the October proposals presented by the minister around work activity were in fact far less than what was guaranteed workers under the present act, the act that is in place now, and we tried to use the example we had got from Linda about your work that had proved that.

I am just wondering now if you can reiterate why you think what the minister proposed in October in terms of work activity offers workers even less protection than they have now under the present act.

Mrs Perrotta: Sure. Right now, the case that we had was in Plasticap in Richmond Hill. We had a number of workers who were doing a job called a grinding job where they had to bend all the time and they had to lift and push. They were doing these repetitive motions about 4,000 times a day.

Consequently we had a number of injuries. A number of women were leaving the plant. They were immigrant women so they were afraid to exercise their right to refuse. The joint committee members had raised the issue on a number of occasions through the committee with no success. They had asked the ministry to issue orders. The ministry had been unwilling to do so.

Finally one day one of the women in the plant who normally does a sweeping job was asked to do this job. She was a member of the joint committee and when she was asked to do the job she refused after doing it one day and going home in such pain. She actually had to leave early because she was in such pain before that day was completed. She came back the second day. She exercised her right to refuse.

We had a nine-month process before we finally got that issue resolved. Immediately the ministry came in and ruled against her, not because it was an ergonomic concern but because it did not believe that it was actually harming her.

We managed to pull in a doctor to examine the other workers on the job. When we provided documented evidence of the kinds of health hazards, the concerns they had, the health problems, as well as the documentation on the kinds of activities they did, the ministry backed off and actually allowed her refusal and ended up issuing orders calling for changes in the ergonomic design of that workplace which have improved it slightly for people there.

Workers now have the right to refuse, if we can get them to use it. It seems to be the only way of addressing ergonomic complaints. Right now we cannot get the companies to address it through the joint committees and the ministry is not acting in any other way because there are no specific regulations addressing ergonomic concerns. If we went ahead with the minister's proposal, it would actually be an incredible step backwards.

On an issue Dick Barry made reference to, the Emerson Electric plant where they had a 20 per cent injury rate on one line, the ministry's ergonomists came in and they actually documented this 20 per cent injury rate. We have had women leave that job. We have had women off for three months at a time, back and forth in the shop, because of these concerns.

When the ministry came in and made recommendations it would not give them the power of an order, so the company would not do anything. When we tried to raise these through the company, they set up a management-only ergonomic committee and said that all ergonomic issues would be dealt with without union involvement. They then cancelled a series of meetings. Then when they finally held a joint committee meeting that our members were at, they adjourned it before the issue of ergonomics came to the table.

We have been incredibly frustrated with repetitive strain injuries. I think we need regulations as well, but certainly the right to refuse on these complaints is absolutely essential.

Mr Mackenzie: As a supplementary on that—

Mr Fleet: May I ask a supplementary on that?

The Chair: Two supplementaries. Okay; go ahead.

Mr Cureatz: Three.

Mr Mackenzie: My supplementary is, can you think of any reason at all why the minister would stand before this committee, as he did, and tell us that his backoff on the repetitive strain was actually a step forward for labour?

Mrs Perrotta: It was a step forward? The only thing I can think of is that we would like to see the phrase "work activity" worked into the legislation because that phrase is not in there. That would be a step forward. In our instance there was machinery people could say, or the condition of the work, but I think that for public sector workers or other workers you would need the phrase "work activity" to be large enough. Certainly limiting it to an immediately hazardous situation is definitely not a step forwards. It is a big step backwards.

Mr Fleet: I think I have had a partial answer to my supplementary but I would just like to be clear. The original question that was put to you was suggesting the answer in the question, which is fine, but I guess what I want to get at is the issue of the concern. It would turn on the wording in the current act as opposed to the wording in the current form of Bill 208 versus a contemplated possible wording in an amendment to Bill 208.

I do not want to be unfair in terms of how you presented your issue, but it would be helpful to me if you could be as clear as possible about exactly what provision in Bill 208 you think is critical to the issue of repetitive activity, since there really is no reference to something that is repetitive per se, either in the current act or in Bill 208.

Mrs Perrotta: In the current act you have the right to refuse for "machine, device or thing" or the condition of the workplace. Currently we have been able to use that right to refuse on a few occasions for old repetitive strain injuries where there has been a "machine, device or thing" that has been involved. We have been able to do that and we have been successful.

1550

Bill 208, it is my understanding, would introduce the phrase "work activity," which would then expand the right to refuse so that people could then refuse something where maybe there was not a machine, device or thing involved. I think this would be someone such as a nursing aide being asked to pick up a person—that is not a machine, device or thing—so one could say that clarifies the legislation.

As the legislation is written currently, you have the right to refuse anything you have reason to believe may endanger you or another worker. It does not specify that it has to be immediate.

When the minister made his suggestions in October that we should limit "work activity" to things that were of immediate danger, I think his concern was specifically with ergonomic complaints. In his speech, I believe he went on to say

that he felt ergonomic concerns were best dealt with through the joint committee. Then that would actually be a backing away from what we currently have in legislation, and certainly a backing away from the improvement envisioned by the "work activity" phrase in Bill 208.

Is that clear?

Mr Fleet: Yes. That helps me in terms of understanding your concern. I am not sure if a possible amendment would necessarily have that negative impact. I share your concern about how any amendment would have an impact on the act and particularly the repetitive kinds of motions people might go through that would cause injury. I appreciate very much your explanation. I found it helpful.

Mr Cureatz: Just a broad supplementary, I guess: I appreciate your response to my colleague's inquiry about the repetitive work. I know through my constituency office—I guess all members do to some degree; others to a greater degree it seems—and my riding being located in a large industrial area, we always encounter WCB problems not dissimilar to what you have indicated.

I want to say to the presenter that with the degree of frustration that was indicated with the specific example about the repetitive work, the presentation, needless to say, was, I felt, aggressive. I guess that aggressiveness is the degree of frustration you have encountered over the inadequacies you have seen for the last number of years in trying to remedy some of these problems and you have reached a point where you feel that a kind of co-operation, a reasonable approach to serious situations has not been dealt with adequately enough from the employer's point of view, and as a result you are very aggressive to try to get this legislation put forward.

Mr Barry: There are some employers with whom we have bargaining relationships where we have used the joint health and safety committee. Those health and safety committees have functioned quite well on occasion. There are others—Westinghouse is an example. It took us a long time to force Westinghouse to clean up the PCBs in its London plant where it produces transformers and capacitors. It took a long struggle with a lot of public outcry in the community.

We have had the same difficulty with General Electric in Guelph. We have the same difficulty with Stelco, or Stelpipe as it is now called, in Welland. We have the same difficulty with

Westinghouse in Hamilton at its Beach Road plant.

It is those types of things—Terry Ryan is a good example, where that worker was not properly trained and as a result is now blinded for life. That is just one instance but there have been many, many others. Camco is an example, in Hamilton. They have frustrated us at every turn when we have raised the question of isocyanates being used and exposure to isocyanates in that plant. That gives rise to my frustration.

It also comes from my background of having worked in the plant and watched the health and safety concerns for many years, and watched the evolution to the legislation we have now. When I also look at the shortcomings that are in Bill 208 in its current form, but even worse the proposals that the minister is putting forward, what he has done is to take the concerns expressed by the employers but ignored all the concerns being represented by the labour movement. When he offers those as improvements and as a step forward in Bill 208, then I really question the motivation of this government.

Mrs Perrotta: If I could just add to that, I guess one of the things we would really like to stress today is that we need two things. We need to improve our enforcement system, and that is why we were speaking to the need for administrative fines such as ticket fines that they would give to employers. They do that with workers but they do not do it with employers.

When you have a Pre Fab that refuses as basic a right as giving us a ministry inspection report, instead of the ministry constantly having to come in and give them a talking to, they should actually fine them and say: "No, that's not acceptable. We have an internal responsibility system. If you don't respect it you will pay." Whereas this company, Pre Fab-Vitafoam, knows the limits of what it can get away with. They know the ministry is not going to take them to court because it is incredibly expensive and it is incredibly onerous to put forward a case. They know they are not going to take them to court unless they have a fatality or lost limb or something.

We need to bolster the enforcement system both to provide that minimum standard, but also to say to people that we expect them to respect the internal responsibility system. We need to do both. We need to strengthen the internal responsibility system with a better right to refuse, the right to stop work, but at the same time we need to do something to bolster enforcement.

Right now what is happening is that there is this push to dump everything on the internal responsibility system and the internal responsibility system is not an enforcement system in and of itself. It is simply a supplement to an enforcement system. You need both. Bill 208 does nothing to improve enforcement. It has increased the amount of a fine, but we have fines that are averaging \$3,500 in the industrial sector. If they put the level up to \$500,000 that does not suggest to me that fines are necessarily going to get any higher. The court system does not understand health and safety.

The Chair: Thank you, Mr Barry and Mrs Perrotta. The next presentation is from the Council of Ontario Construction Associations and I see the gentlemen are here. I recognize the faces from another world. The brief from the council has been distributed to members and I think you also wanted to have an overhead projector set up. That is correct, is it?

Mr Frame: That is right. Perhaps we could have just one minute to to set it up here.

The Chair: I think we are about ready to go. If you would introduce yourselves, we could proceed. The next half-hour is yours.

1600

COUNCIL OF ONTARIO CONSTRUCTION ASSOCIATIONS

Mr Frame: We are the Council of Ontario Construction Associations, as you announced. I am going to quickly do some introductions. At my far right is Doug Chalmers, who is president of Chalmers Construction out of Sarnia. He is also president of the Ontario General Contractors Association. Beside him is Alex Deulus, chairman of Kamet Enterprises Ltd. He is also chairman of our council, COCA. Beside me is Doug Wright, chairman of Ontario Electrical Construction Co Ltd. He is the chairman of the COCA occupational health and safety committee. My name is David Frame. I am the executive vice-president of COCA. Alex will start with a few opening remarks.

Mr Deulus: We appreciate the opportunity to meet with the members of the resources development committee today to talk about an extremely important piece of legislation, Bill 208, amendments to the Occupational Health and Safety Act.

The Council of Ontario Construction Associations represents 49 local mixed trade and trade construction associations throughout the province of Ontario. The mandate of our council is to represent the common views, concerns and

proposals of our member associations to the provincial government on matters of provincial legislation and regulations.

COCA's specific mandate is to work to oversee three principles on behalf of our members. Those are, first, to contribute to the long-term growth and profitability of the construction industry in Ontario and to ensure the profitable growth of the individual firms and a reasonable return to owners and investors; second, to represent the construction industry at Queen's Park on certain issues which are common to all construction associations and which can best be dealt with on a unified basis, and to continue to improve the standard of living of industry personnel and health and safety in the workplace; last, to supply construction consumers with high-quality products and services on an efficient internationally competitive basis.

I will now ask Doug Wright to make a presentation on safety in the construction industry.

Mr Wright: Nothing in Ontario's construction industry is more important than ensuring day-to-day safety for the workers on our job sites. We are here to talk about the proposed amendments to the Occupational Health and Safety Act, but first it is important to establish our credentials as an industry that has responded to the safety challenge. Of course, we are all aware that construction by its nature can be an unsafe occupation. However, with proper practices and procedures the industry can and must become much safer than it once was. In fact, I believe the research I am about to show will establish that safety has become an integral part of the construction business.

Mr Frame: Could you turn on the first slide? We are going to run through about half a dozen slides, which are also attached in the booklet we have given you.

Chart A, which is up before you, illustrates the accidents per 100 workers in the construction industry over, I believe, the last 23 years. There are two lines. The higher blue line represents where the construction industry has gone over that period. The dotted red line represents all other employers in schedule 1 with the construction industry removed. As you can see by the lower line, there has been some gradual improvement over the last 23 years for everybody in general, but the construction industry has made some substantial improvements in incidents. This is the total number of incidents per 100 workers. They have gone from 34 down to 19. I will correct what is in your book. It says 14; that

is a typo; it is 19. But the percentage is right. That represents a 44 per cent decrease in accident frequency since 1965. Further, we mention that there is a 52.5 per cent reduction in all medical aid accidents and a further 64.5 per cent reduction in the industry's fatalities.

The next chart is a variation of what we just showed you, except what we have done is we have broken all the major industrial groups out by their safety association. It shows that most have made some substantial improvements over this period, with the construction industry making the biggest improvements over that time period.

I am going to run through the next two quickly. There is a lot on these slides, but let me just explain. The next three slides we are going to talk to you about come from this booklet, which was published last August by the Ministry of Labour. It is attached to your package, and I hope you will take some time to look at it. These next three slides are out of that.

This slide and the next slide compare Ontario's accident performance, and it is a slightly different measurement. This is the provincial lost-time injury rate per 100 full-time employees. These are lost-time accidents. It clearly shows that out of all the provinces Ontario has the best record and Ontario is at a level right now where, in the whole of the country, we have the best levels of safety.

The next slide is a similar comparison, only what has been done is that Ontario has been compared with Canada and other major nations. As you see on this chart, included are the United States, France and Sweden, which is one of the models for Bill 208. Even in these international comparisons the Ministry of Labour has found that the Ontario construction industry has an accident avoidance level which is second to none.

Mr Wright: It is vital, as we move to make major amendments to our Occupational Health and Safety Act, that we ask why and how Ontario has established itself as a world leader in construction occupational health and safety. We must answer this question so we can build on our successes and preserve what has worked well and should continue to work well in the future. Similarly, we must determine how further improvements could be implemented.

COCA's occupational health and safety committee has identified three principal reasons for these successes:

The contractors recognized that significant safety problems existed and, as a group, decided to give the Construction Safety Association of

Ontario a mandate to act on their behalf. CSAO is operated by construction owners for the industry's benefit. It is not an extension of the government but part of the industry, providing safety professionals who work on behalf of all the construction industry.

In 1977 the Occupational Health and Safety Act was implemented, representing a broader scope and a fairer enforcement of occupational health and safety laws by the construction health and safety branch of the Ministry of Labour. A more co-operative approach brought an extensive understanding of the act and its regulations to the industry.

In 1984 Ontario's construction industry was the first sector to enter into an experience rating system. CAD-7 has provided contractors with individual measurements of their accident performance and has provided a financial incentive to reduce accidents. In only a few years of operation, over \$75 million has been rebated back to the industry for accident reduction. Since its full implementation, construction's LTI, lost-time injuries, frequency has been reduced 15.5 per cent.

1610

Increasingly, the construction industry is policing itself. Industry leaders have recognized that a safe construction site requires the constructor and all subcontractors to use safe work practices. Often contractors are required to have a certain level of safety performance before they are accepted to do or even bid on a job. Clearly, safety performance has become an important part of Ontario's construction industry.

Now we will move right into an overview of Bill 208. COCA agrees with the principles on which we understand Bill 208 is founded: the need to increase the levels and quality of training available throughout the province and to increase the level of co-operation between the workplace partners. However, COCA and the construction industry in general are extremely upset that Bill 208 goes much further than these intentions. In many cases, it attempts to build new structures with little or no respect for what has worked well in the past and without any attempt to build on these successes.

There are four areas that we will be looking at on Bill 208. The first one is the occupational health and safety agency itself.

The industry's number one concern with Bill 208 focuses on the proposed new agency. It threatens the industry's ability to operate its own CSAO and therefore is a threat to construction health and safety in general. Only a construction

safety association which is fully accountable to industry members can provide the type of understanding of services required and in return receive the necessary support from the industry.

We believe Ontario's construction industry, as the world leader in safety, has proved itself successful in policing and providing training, advice and information services delivered through the CSAO. The proposed safety agency threatens this progress.

The creation of this new agency is an unnecessary and counterproductive initiative that will raise costs to the employers, taxpayers and investors, add complexity to the construction management process and reduce the effectiveness of safety institutions.

A real mystery of this bill is why it is being applied universally. Rather than building on the construction industry's progress and positive relationships developed over the past 22 years, it blindly structures a new framework that reduces the construction workplace to another classic labour-management confrontation. There is no need to disrupt and stifle a process that is working effectively and showing a significant improvement trend.

The proposal to form a new agency is not supported by the facts:

1. The two driving forces between the improving safety record are the Construction Safety Association of Ontario and the co-operative, labour-employer approach to worksite safety management.

2. The successful years of building this institution and forging a culture of worksite safety partnership could be ended by an abrupt change in the controlling dynamics. The forced partnership in CSAO can only lead to increased confrontation and slower progress in safety accountability among employers.

3. We have already established that the safety record of the Ontario construction industry is the best in the world and getting better.

We think there are problems that will be created by this proposed agency, including the cost and representation. The proposed safety agency duplicates some of the work of CSAO and provides a freedom to increase costs at 10 per cent per year, all costs to be borne by the employers. Worker certification training and time spent on worker safety duties must be fully paid by the employer.

Forcing 50 per cent union representation in the management of the new agency and in CSAO places both parties in a position of conflict, excludes nonunion workers from the agency and

jeopardizes a positive safety trend. In an age when unions are shifting to a participative trend, the bill acts to restore traditional postures rather than encourage labour to continue to seek a voluntary partnership with management.

A proposed solution is an independent CSAO whose management structure must remain accountable to the construction industry. This accountability is partially based on the fact that the industry funds the CSAO's \$10-million annual operating costs through a surcharge on Workers' Compensation Board premiums of about two per cent. This surcharge is much higher than most other industries, but it is money well spent in terms of avoiding accidents and their related costs.

Any proposal to change funding so it is no longer industry-group specific is totally unacceptable. Construction requires higher levels of funding and, as the beneficiary, we must pay it. Direct accountability of the CSAO to those who fund and use the service is absolutely essential.

The second part is the right of the certified worker to stop work. The current Occupational Health and Safety Act permits an individual the right to refuse work that he or she considers to be dangerous. The proposed amendments to the act provide for, in the case of construction, a joint health and safety committee with at least one certified employer and employee representative on sites of 50 or more workers for a period of six months. It also gives any certified member the right to unilaterally stop all work on a worksite.

The Minister of Labour has stated that the standing committee on resources development should consider models proposed by his office as well as creative solutions from other parties at the public hearings. We agree with the minister that joint decision-making is best and unacceptable work practices should end until rectified. COCA believes that a unilateral stop-work right, as proposed, is unnecessary, damaging, creates potential for manipulation by unscrupulous workers and does not necessarily improve worker safety. Management obviously already has not only the right but the accountability to stop work.

As workers already have the right to refuse unsafe work, the cessation of all work at a worksite is unnecessary. The current rights, if properly exercised, effectively protect worker safety. We are concerned that a worker stop-work provision would not support but undermine the co-operative atmosphere developed to this point.

Our proposals include the following:

We request a deletion of the unilateral power to stop work by certified employees.

We propose that this power be replaced by the right to immediate conference with the site employer representative and a Ministry of Labour inspector. There would have to be mechanisms and assurances that this meeting would occur quickly and a hotline approach could be met. If there continues to be disagreement, the ministry will make a decision.

We propose an accelerated education program of all workers to: apprise them of their rights to refuse work; recognize dangerous work situations, and understand the appropriate actions required by them.

The ministry should undertake a concurrent program of study to ascertain whether the above proposal is effective when employed as well as a hindsight and continuing analysis to determine if one method is more effective than the other.

For consistently poor safety performance by an employer, we support the assignment of an inspector at the employer's expense to the worksite, and other appropriate, relevant and just punitive measures.

We know that the minister has stated that, "The act was founded on the central idea that it is the people in the workplace who are in the best position to identify and minimize health and safety risks." We fully agree but we consider that the government and the management representative will always have more information than workers, regardless of the quality of training programs.

1620

To allow the least-informed member of the safety partnership to act unilaterally has several strategic weaknesses: It will tempt employer site representatives and workers to abdicate the responsibility for safety to the worker representative; it restores the confrontation model; it detracts from management's ability to fulfil its responsibilities; it denies workers their individual right to judge on personal safety issues, and it reinforces the élite worker idea. Our proposals achieve the shared ministry-industry goals without the risks to present positive safety trends in construction.

Our third point is on worker certification. Industry is concerned that the concepts of training certified workers and adopting a pool of such workers to be used on projects is unworkable and deleterious to safety for several reasons:

It establishes an élite, creating a fourth stakeholder at the worksite.

It infers that safety responsibility rests with the élite, reducing the pressure on individual workers to be educated in safety measures, learn to recognize current dangers and meet their responsibility.

It gives industry no flexibility or opportunity to develop a working partnership.

It creates a quasi specialist who will be operating in an area of inadequate knowledge, which is normally the responsibility of ministry inspectors, analysts and specialists. This presents several dangers, such as overreaction to safety issues, overestimation of extent of knowledge, withdrawal of accountability from the truly responsible specialist in management and in the ministry.

It focuses resources on a few and denies them to the majority.

Even with the proposed exclusion of projects with less than 50 workers and six months' duration, the certified worker idea has limited workability in our industry.

The proposed pool of certified worker representatives is only workable in the unionized sector. The nonunion workforces usually will not have the needed flexibility in employment practices.

We propose that all workers must be trained to recognize health and safety risks, the appropriate preventive and corrective action and their rights. In place of certified representatives, all construction workers over a reasonable period of time should be required to complete and regularly update courses on construction safety, the workplace hazardous materials information system, WHMIS, and the Occupational Health and Safety Act. The CSAO should be given responsibility for developing programs and making material available throughout the construction industry. Training will better inform workers of their individual right to refuse unsafe work.

CSAO should establish a standard for safety training and an effective implementation plan based on existing program components and new elements to be developed after consultation.

The program should be delivered by a combination of apprenticeship training, in-house training and CSAO training.

The industry will set, track and achieve safety targets related to the implementation programs.

Worksite safety progress can be achieved by recognition of incident priorities within the industry and concentrating on them. Some of these priorities could not be addressed by the appointment of a certified specialist, that is,

overexertion or failure to concentrate at the start of the week.

The next item of Bill 208 that we look at is the joint health and safety committees and the trade committees.

One of the construction industry's stated goals is "to reduce accidents and protect workers' health by enlisting labour, management and government endeavour through co-operative activity, such as joint health and safety committees."

The construction industry supports the intent of the ministry to expand the use of "joint health and safety committees and give the committee greater responsibility for inspecting workplaces and fuller access to information about workplace risks." However, we feel that although there is enormous merit in this approach, there are also some risks in the ministry's proposal.

Joint committees have been successful where the committee's goal is clear and shared by all parties. The evidence is available to support the positive results that can be achieved when the motivation of all parties is genuine and objective.

Equally, the evidence shows that the presence of trades committees inhibits the joint committee and reduces safety results. The bill calls for the appointment of trade committees on all sites with 20 or more employees. There are some other aspects of the bill and the safety representative proposals that do not apply but to which we direct specific counterproposals. Those proposals are:

1. That the trades committee and its related requirements be deleted from the bill.

2. That the election process for health and safety representatives in small firms be replaced by a process in which management appoints the representative.

3. That the industry supports the requirement that workplaces with five to nine permanent workers have safety representatives.

The ministry proposals for workplace partnership are laudable but will only be workable if: there is substantial accommodation of the industry's proposals; there is recognition in enforcement of tremendous variety between companies and projects and the need for management flexibility; corporate performance be the final measure of compliance.

In conclusion, it is COCA's belief that reform of our Occupational Health and Safety Act must proceed based on three strategic principles.

1. Increased amounts and effectiveness of health and safety education and an increase in its availability to all workplace participants.

2. Enlist labour, management and government's endeavour through co-operation and operation of structures such as joint health and safety committees.

3. Establish strong legislation that rewards good safety practices and that penalizes those with poor performance.

We are convinced that this direction will provide an effective base for improving standards of occupational health and safety through the 1990s and into the next century. We hope that the government is prepared to make the needed amendments so that management can consider itself a partner under this legislation.

The Chair: Thank you, Mr Wright, for your presentation. We have actually used up the half hour, but did members want to take five minutes and give everybody a chance to put questions?

Mr Dietsch: Yes. I have one very quick question. During the process of developing Bill 208, there was a considerable number of discussions between a group representing labour and a group representing management from all different sectors. I believe, Doug, you were one of the representatives on that particular committee.

This morning, the Ontario Federation of Labour indicated that it felt there was an agreed-upon piece of legislation and indicated that it felt very concerned that the agreed-upon legislation that was hammered out between management and labour—and I would have to check Hansard to see the exact wording. I think it was something to that effect—is now considerably different. As you were a member on that particular committee, did you feel you had an agreement on Bill 208 or did you have an agreement on principles? Exactly what did you have an agreement on?

Mr Wright: Yes, I was a member of that committee. I think the first committee meeting was somewhere around February or March 1988, if not prior to that. I also have a letter about that time where I congratulated the then Minister of Labour, Mr Sorbara, on holding the committee, but I felt there had really been no final conclusion and no substantial conclusion. There were parts that were discussed right from day one; namely, there was a follow-up letter after March where I objected to the agency. There has not been, in my opinion, any finalized result coming out of those particular meetings.

1630

Mr Dietsch: Did you have somewhat of an agreement on the principle of health and safety?

Mr Wright: On the four points—and at that time, we were actually looking at five points—the four that are mentioned here, in my opinion there was never any real consensus.

Mr Dietsch: The other question I would like to ask is in relationship to lost-time injuries, and I reflect on the charts that you used. There appeared to be a good standing recognized by the construction industry by the charts. However, the one thing that I note it does not reflect is whether there has been an increase in accidents in the construction industry over the last while. At least, I did not find it; I may have missed it. Was there an increase in accidents over the last couple of years, and what were the fatalities?

Mr Wright: I will refer that to David, if I may.

Mr Frame: I can provide that information to the committee. I do not have it in front of me. We regularly go to our actuaries and update this information and it is now being done for 1988. We presented you with some of the early information.

Generally speaking, accidents in the construction sector have been pretty well even over the last three or four years, while employment in the industry has been going up every year. As you see in the chart, that has led to a downward movement in terms of the lost-time injuries per 100 workers.

With fatalities, it is the same. I know last year fatalities were down very slightly, by a couple. That again is while the industry was in a growth period last year. If you wish, I will provide that material to the committee within the next couple of weeks.

Mr Dietsch: I would appreciate it if you would.

Mr Mackenzie: I have a little bit of difficulty with page 13 in your brief, where you say, "The minister has stated that, 'The act was founded on the central idea that it is the people in the workplace who are in the best position to identify and minimize health and safety risks.'" Then you say, "We fully agree, but we consider that the government and the management representative will always have more information than workers, regardless of the quality of their training programs." To me, forgive me, it is something like saying, "We've really got a bunch of dummies out there."

You go on on the next page to say what this bill will do, "It reinforces the élite worker idea." I do not know how they can be very élite when you have already decided that they are not going to have anywhere near the kind of information or

brains that management or government are going to have when it comes to the safety and health field.

Finally, and it is part of the same thing, I am wondering if you realize what you say on page 19 when you propose that "the election process...in small firms be replaced by a process in which management appoints" the health and safety representatives.

Then you go on to say, "The ministry proposals for workplace partnership are laudable, but will only be workable if: there is substantial accommodation of the industry proposals; there is recognition in enforcement of tremendous variety between companies and projects and the need for management flexibility, and corporate performance is the final measure of compliance."

How in blazes are we ever going to get direct and equal worker participation in the kind of a suggestion you have made in this brief?

Mr Wright: You are dealing with all sizes of project sites, work sites, and in each site what we are seeing there, going part by part, is that the enforcement has to differ for the different sizes of the site.

Mr Mackenzie: But in all cases it has to be management-oriented?

Mr Wright: In all cases except—

Mr Mackenzie: The bottom line has to be the corporate position and management has to choose the safety and health people? Some of those comments are really unbelievable,

Mr Wright: Management should have that right. I would not take back what I said in that brief. I would agree with it.

Mr Chalmers: Could I give you a little example and a little background? My company was awarded the award of excellence last year for roughly 780,000 man-hours without a lost-time injury, and we will be passing a million man-hours shortly. If we used what is suggested in the bill, my company will become almost unsafe. By the way, from what the CSAO is saying, we may be the only company in the world that will have attained those man-hours. We are now approaching one million man-hours in civil construction, which is a high-risk type.

What happens on the job site is that the job site is ever-changing. It is impossible, even for ourselves, to have one person who is expert in all phases. The bill sort of implies that you are going to train someone in a short period of time. If a Ministry of Labour inspector runs into a problem now on a job site, it has become so sophisticated

out there and techniques and technology have changed so much, he too has to call Toronto or the area office to speak to a specialist.

The industry is being broken down into segments or elements where we all have specialists, and to have this one person on an ever-changing site, where I might come in with a crew of labourers and operating engineers to start a job and might finish the job with electricians, it is very complicated. To ask one person, an electrical person, to be knowledgeable on whether the falsework is safe or not, I think is impossible.

We have sent engineers to university for four years. I have them on my payroll and it takes another three or four years before these guys realize where the tire has been corroded and what is safe. It is not something you can do in a very short period of time. When we look at the areas you are talking about, we have to look at the individual area and then expand it to the whole. I think that is where the problem is coming from—for someone who is not thoroughly familiar with the construction industry to see where we are coming from on those areas.

Mr Mackenzie: But the problem is, it is never going to be the worker, it is always going to be management, according to what you are saying here, regardless of what we do.

Mr Chalmers: I think you can ask yourself. In the area my company is in, again the Construction Safety Association of Ontario will show it to be the safest area in the world to work. Several companies have a frequency of zero. That is what our frequency was on this award. What makes a good program work is that it is a shared responsibility. If you and I are going to put up a joist—and on a small construction site where a lot of your accidents happen, you do not have a specific tradesperson doing it—if I do not know what you are doing and you do not know what I am doing, we are going to have a real problem up there and one of us is going to get hurt.

Mr Mackenzie: I would have a real time co-operating with you on the basis of equality if you have already decided I am the dummy in the operation.

Mr Chalmers: No one has said you are the dummy.

Mr Mackenzie: That is certainly what you could read out of this document.

Mr Chalmers: I can give you another example of an accident that happened on a competitor's site. It is near four o'clock; it is quitting time. Most people out there are very

dedicated tradespersons. If we want to talk about one half of one per cent—forget about the people who are not dedicated; the majority of the people on the job site are. So at five minutes to four, which is quitting time, we see a guy stand on an eight-inch block wall, trying to weld a clip on. Twenty feet away is a working platform, but it is near quitting time and he just has to get this done for his own self-satisfaction. If you do not have a crew committed to safety, they will not tell him to move the working platform or move it together so that he works from it instead of the eight-inch wall, because he is going to fall off.

We have cases where we have seen this in other areas and in other accidents. Falls are a real problem and usually they are not caused by someone not knowing. It is by someone not working on a team concept. It is a team concept for safety. The DuPont studies show that if you do not have upper management 100 per cent convinced and the owners of these companies driving, then you are not going to get to most of the workers, because a lot of guys are thinking it is bottom line, because most people up there are dedicated, and it is not a case of dummies.

The Chair: I hate to break into this, but we are over time and we really must move on. We have another presentation coming up. Thank you very much for your presentation.

The next presentation is from the United Food and Commercial Workers International Union. We welcome you to the committee this afternoon. If you would introduce yourselves, we can proceed with your presentation whenever you are ready.

1640

UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION

Mr Evans: My name is Cliff Evans. I am the Canadian director of the United Food and Commercial Workers International Union. I have with me Paul Magee from the national staff, and Sarah Shartal from Local 175 in Ontario.

We would like to thank the members of the standing committee on resources development for the opportunity to bring forward the concerns of our members concerning Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

The UFCW is an international union representing more than 1.3 million workers in North America. UFCW Canada currently represents more than 180,000 working Canadians, and we are the largest private-sector union in the country. Approximately 80,000 of our members

work in Ontario and thus are directly affected by the outcome of the developments of this legislation.

Approximately 40,000 of the UFCW's members in Ontario are employed in the retail food sector, while another 20,000 work in primary and secondary food and beverage processing and packaging and related industries. In addition, UFCW members in Ontario work in a variety of service and manufacturing industries such as other types of retail stores, banks, shoe manufacturing, fur and leather production, nursing homes, funeral homes, transportation, hotels and restaurants.

We provided the committee with a breakdown by percentage of our membership by major sector based on our September 1989 figures. The variety of jobs that our members perform in Ontario means that our members are confronted by virtually every type of workplace danger, along with the inherent risk of injury or, in some cases, death. Our members work in situations which contribute to serious and debilitating long-term injury through repetitive strain; which expose them to the risk of immediate injury caused by impact or laceration; and which bring them into contact with some of the most dangerous and toxic chemical substances known.

It is our understanding that this committee will also be entertaining submissions from some of our 68 local unions in Ontario as well as four councils and boards which represent UFCW members in Ontario. In addition, you will hear from other labour bodies to which our members are affiliated. The specific concerns of the various sectors and communities they represent will be examined in more detail in their respective submissions. The purpose of this submission, therefore, is to provide an overview of our members' concerns and recommendations concerning Bill 208.

Since the Occupational Health and Safety Act, Bill 70, was passed in December 1978 there has been an ongoing dialogue between Ontario labour bodies and the government of the province. At times there has existed a wide gulf between the message Ontario workers were trying to communicate to government and the message the government of the day was willing to hear.

The multilateral consultations with representatives of both the labour and business communities which went into the development of Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act, provided a historic and progressive basis for the

creation and acceptance of legislation intended to improve conditions for Ontario workers.

While not without some qualifications, labour's endorsement of the original bill tabled by the then Minister of Labour, Greg Sorbara, on 24 January 1989, was resounding. Certain sectors of the business community were less enthusiastic, and the aggressive pressure tactics they exercised resulted in a complete change of direction by Premier David Peterson's government. Since Gerry Phillips was appointed to the Labour portfolio last summer, Bill 208 has been referred to this committee after second reading and the substance of the bill has been radically altered. From the point of view of the people this bill is meant to aid, the working people of Ontario, these amendments represent a major step backwards.

This bill has been treated like a suit of clothes which can be tailored to the needs of the wearer. The message which government has been sending to Ontario is that if the suit does not quite fit off the rack, you can pay a few dollars for alterations at some point in the future. Bill 208 is not a suit, and if it does not fit, Ontario workers will pay dearly with loss of limbs, crippling injuries, workplace-related illnesses and even with their lives.

In short, it is incumbent upon this committee to deliver a single message to the government of Ontario: Bill 208, as currently drafted, does not address the needs of Ontario workers for protection against workplace hazards or for compensation for their sacrifices resulting from workplace hazards. What began as a progressive development for Ontario workers has been turned into a retrogressive piece of legislation which will only prolong this province's shameful record of maiming and killing its workers.

UFCW Canada and its members across Ontario fully endorse the submission to this committee made by representatives of the Ontario Federation of Labour, and the amendments outlined therein.

In particular, we would like to address four major areas of concern to UFCW members: (1) independence of the Workers' Health and Safety Centre and occupational health clinics; (2) tripartite versus bipartite structure of the Workplace Health and Safety Agency; (3) restrictions on the right to refuse unsafe activities and the right to shut down, and (4) recognition of smaller, "common" workplaces.

Our concentration on these subject matters is not intended to diminish the importance of the many other flaws of Bill 208. In upcoming

hearings, other representatives of our union will address specific issues with particular relevance to their workplaces, and this committee is sure to hear from bodies with concerns not directly affecting our membership, such as public service exemptions.

1. Workers' Health and Safety Centre: The legislation under consideration would place the now independent Workers' Health and Safety Centre and two occupational health clinics established by and for Ontario workers under bipartite, labour and management, jurisdiction. This would also apply to the nine employer safety associations, including the Industrial Accident Prevention Association.

We find this determination to be unacceptable. While we believe fully in the spirit of co-operation with employers in achieving the goal of safe workplaces, we cannot support the legislation's requirement for bipartite representation in the operations of our centres and clinics in order for funding to be available.

We do, however, support the recommendation for the amendment adding section 10d to the act, in section 6 of Bill 208, which would recognize the separate jurisdiction of labour and management by supporting two centres, one to be operated separately by workers and to serve their needs and one to be operated separately by business and to serve its needs. There is concurrence from the business sector that this would be a preferable arrangement and that the current employer safety associations could be rationalized and restructured into bipartite sectoral associations.

An amendment achieving the above would, we feel, still be in keeping with the spirit of co-operation this legislation is obviously hoping to achieve, particularly since the programs encompassed by this legislation would still be under the jurisdiction of the new Workplace Health and Safety Agency. It is this agency which is meant to be the place for the strong bipartite representation of labour and management which is discussed in more detail in the next section.

2. Workplace Health and Safety Agency: A huge flaw in the amended Bill 208 is the seemingly innocuous change it makes to the structure of the new Workplace Health and Safety Agency, steering it away from a traditional co-operative structure which has been in place and working for many years. We have demonstrated the need for independent bodies to serve the respective needs of Ontario workers and business people, but we do not believe that in the

instance of the agency there is any benefit to complicating it by the addition of a third, even if neutral, interest.

The dual participation of labour and management is integral to any program requiring workplace compliance. The direct input of both sides provides the essence of achieving agreement, and the success of this bipartite arrangement has a long history. Bill 208 would ignore this tradition and instead place the agency under the direction of a neutral chair. There are, of course, occasions when labour and management reach an impasse in the negotiating process. But even though they may start from different proposals, they have a common objective, and that is agreement. That is what the negotiating process is all about and there is no justification to impose a third party before the fact.

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Despite any good intentions, a realistic look at the proposed tripartite system makes it clear that the result would actually produce a management-biased agency. While the setup provides for the input of two vice-chairs, labour and management, in practice the agency would become government-dominated. As one of the province's largest employers, the government's additional influence would, by nature of its representation in the agency, sway the balance of the agency in this direction.

This is clearly not in the interest of Ontarians. Since the legislation is intended to ameliorate conditions on behalf of Ontario workers and because such a structure for the agency is contrary to that intent, this flaw must be rectified.

Similarly, the establishment of a small business advisory committee to the agency is an untenable proposition in its present form. Such a committee must have representation of employees in that sector before it can be considered to be a justified part of agency procedures.

At the same time, it appears ludicrous for the minister on one hand to suggest that part of the charge of the advisory committee is to advise the agency on the cost-effectiveness of programs, while actually adding to overall cost by amending the structure to provide for the so-called neutral chair and four more part-time directors. All five of these positions are unnecessary and will make the entire process even more cumbersome as well as more costly. They are, quite frankly, excess baggage which can be dropped at the outset.

3. Modifications to the right to refuse and shut down: The single most important aspect of Bill 208, and the reason it was initially so resounding-

ly welcomed as a progressive bill despite its original flaws, is granting workers the right to refuse unsafe activities in the workplace and the right to shut down.

As originally proposed, Bill 208 sought to put Ontario in the forefront in terms of protective legislation by permitting workers some degree of self-determination in work with long-term hazards, such as jobs which provoke repetitive strain injuries.

Instead of expanding workers' rights in Ontario, as originally drafted, the amended Bill 208 seeks to set new, unprecedented restrictions on these rights and to tie them to business-oriented economic imperatives. The amended version modifies the right to refuse by adding the qualification "imminent danger." This qualification in itself is enough to remove Bill 208 from any resemblance to progressive legislation. It reneges on a right already established for Ontario workers, and can therefore be defined only as retrogressive.

Moreover, the right to shut down, while written into the legislation, would not exist in practice. It would be tied to the good employer-bad employer system. Only in the case of a bad employer would a simple, certified, member-initiated shutdown be permitted. In the simplest possible terms, economic ones, bad employers are being encouraged not to clean up their act, but to give the appearance that they have cleaned up their act.

We have seen it already. Workers' compensation assessments are increased for bad employers, hitting them where it hurts, in the pocket-book. In many cases, however, instead of reforming them, this action simply turns them into worse employers, as instances of unreported and even covered-up accidents have surfaced.

The amended Bill 208, through its acquiescence to industry interests, would tear down the protection Ontario workers have already achieved. The right to refuse work which jeopardizes the safety or wellbeing of any person already exists in Ontario and has been upheld under the present act.

To bring in legislation that would deny any workers the right to keep themselves from threats to safety and wellbeing is essentially abhorrent. As it stands now, Bill 208 would reduce the status of workers in Ontario to chattels of the employers, with little or no right to self-determination or protection.

Business interests have argued that without the dilution of these established rights as provided in the amended Bill 208, they might as well close

their doors. Workers, they say, would control production lines and other workplaces.

In fact, the vast majority of working people in the province and elsewhere want nothing more than to do their jobs in a safe and secure environment and receive appropriate remuneration for their efforts. It is no more in the employees' interest to shut down production without just cause than it is in the employers'; and it is as much in the interest of the employers to provide these protections to their employees as it is to the employees themselves.

4. Recognition of smaller, "common" workplaces: There is at least one further adjustment needed to fine-tune Bill 208 inasmuch as many Ontario workers will be disfranchised from even the protection this legislation would provide.

While in its current form Bill 208 provides for the existence of worker health and safety representatives in workplaces with between five and 20 employees, it does not give workers in this category the right to representation provided to employees in larger workplaces.

Achieving the full protective structures of this legislation in all workplaces with less than 20 employees may not seem practical, but when there are multiple locations with a common employer, special consideration must be given. In particular, in a case where fewer than 20 workers are employed in a given workplace, but more than 20 workers are employed by the same employer conducting the same business in a single community, these workers should, for the purposes of this legislation, be regarded as being employed in a single workplace.

We recognize that amending Bill 208 to accommodate this sort of instance would not be a simple task; drawing arbitrary cutoff lines never is. It is, however, because the structure of the current act arbitrarily disfranchises workers in such a situation that we feel it is imperative that this denial be corrected.

I might say to this committee that our union probably represents more people in that category than any other labour organization in the country. When you are looking at chains of drugstores and supermarkets and other types of retail establishments spread out across Ontario, to find out that these people are disfranchised from protection is something they, as individuals, do not feel that they deserve: to be second-, third- or fourth-class citizens.

This is an issue of great importance to many of our union's members and to many other workers in this province. We would be most happy to work with the committee in finding a solution to

this problem, particularly in a joint effort with representatives of employees of such workplaces, such as smaller retail chains, beer and liquor stores, car rental agencies, etc, the members of which are among those who would be left out in the cold by the bill's current wording.

In summary, the concerns addressed above are the major concerns, but only a few of the concerns, raised by UFCW members in Ontario regarding the wholly inadequate nature of this legislation. There are many other problems with Bill 208, especially in the language governing the right to refuse and the right to shut down.

In order to facilitate the work of this committee, however, and to allow as many voices as possible to be heard, we will not go into further detail on these subjects, but would again refer the committee's attention to the submission made by the Ontario Federation of Labour on these concerns, with which we wholly agreed, and to the other submissions on behalf of UFCW members and other Ontario workers to be heard in the coming weeks.

In conclusion, by its nature, the determination of legislation tends to be impersonal. The larger social benefit is the purpose of the law, and consideration of individual instances cannot be given undue weight. Law sometimes has to trade the rights of individuals against the benefit of the majority. Too often, however, we tend to overlook basic human needs and rights in a determination to be fair to all parties.

This is precisely what has happened in the development of Bill 208. What began as an adequate and in some ways even advanced piece of legislation has become bogged down by an attempt to satisfy all parties. That the bill is supposed to protect workers in the workplace seems to have been forgotten in the hope of mollifying a vocal minority of employers unwilling to surrender any aspect of control over their employees and their safety.

Running counter to this, many of the submissions the committee will be hearing during the weeks of public hearings will call upon reams of statistics which show that human toll of the inadequacies of the Ontario health and safety and compensation acts. The numbers are, quite frankly, frightening.

1700

But statistics are cold and impersonal. What must remain paramount in any consideration is the need of the average worker to be able to perform his or her job without the threat of

personal injury, either imminently or in the long term.

In the UFCW we deal daily with workplace hazards that need to be addressed, and we spend at least as much time in helping disabled workers who are unable to get past the faceless bureaucracy of our compensation system to get the compensation they deserve for their injuries.

In that sense, our members and other organized workers are the lucky ones. They have someone on their side to go to the employers, appeal boards, tribunals and commissions, and to appear on their behalf at public hearings such as this one. But for every union member whose voice is heard through this forum at least two workers are not being heard, and more often than not they are in even more threatening workplaces.

Similarly, the statistics reviewed in consideration of Bill 208 do not show the whole picture in terms of numbers. Many workers simply cope with the pain caused by their jobs and even blame themselves for their condition. They have not sought compensation because they think they have done something wrong, not that something wrong has been done to them.

Throughout this province supermarket cashiers are being slowly but effectively disabled by the ergonomic inadequacies of their workstations and the repetitive strain injury caused by such work. From pharmacies to flour mills, from packinghouses to hardware stores, our members are daily experiencing injuries. It can be anything from a small cut to a lost limb, anything from a strained back to a crippling twist of the spine.

Increasingly, workers are concerned about the effects of the substances with which they work. It is only in recent years that we have learned how deadly many chemicals used in various workplaces actually are, particularly with the massive long-term exposure experienced by those who work with them. We are currently working with the Ontario government in investigating the possibility of a link between cancer cases experienced by retired UFCW members in Barrie and the chemicals used in the now-defunct tannery in which they worked.

The dangers of long-term exposure and repetitive strain are not always obvious. In fact, sometimes the workers do not even realize what their jobs have done to them. There is a woman living in Kitchener, a retired member of our union and a basically happy grandmother, who spent 10 years working in a packinghouse. One of her few complaints in life is that her hands are too crippled to knit sweaters for her grandchild-

dren. Somehow she feels her arthritis is her own fault. She has trouble making the connection with the years of cutting meat, making the same repetitive motions more than 100 times an hour.

In any workplace there are dangers, and far, far too often they can be lethal. Members of this committee will remember a scare in the neighbourhood of the packinghouses in this city's west end last summer. A leak of anhydrous ammonia caused fears that an evacuation of the surrounding district might be necessary. Fortunately, the deadly gas dispersed with favourable winds, but not before a member of our union died from horrific burns caused by the ammonia. His partner had died under similar circumstances in 1982.

His widow told us about him and summarized his goal in life very neatly, "His ambition in life was to leave the fast pace of the city and to retire into the quiet and peace of the countryside." He was 64 years old when he died. His dream of retirement would have come true this spring.

This case is still under investigation and it is impossible, as well as legally inappropriate, to say at this point whether a properly constituted Bill 208 would have saved his life, but there is no disputing that legislation is desperately needed to ensure that Ontario workers have every protection they can reasonably expect.

It is the duty of Premier Peterson's government to provide such legislation, and it is the responsibility of this committee to bring that message to the Legislature.

This public hearing process is meant to bring the voice of Ontarians to the ears of government. Unfortunately, despite strong representations to the committee conducting hearings on Bill 162 last year, the working people of Ontario were apparently unheard. The people most affected by that legislation were betrayed.

Bill 208 is not an issue of labour versus management. Bill 208 is an opportunity for Ontario's leaders to finally bring true protections to the working people of the province. In the most heartfelt way possible, we ask you to make those protections a reality.

I will try to answer any questions any members of the committee may have.

Mr Dietsch: I would like to ask a question. Some time back when you were dealing with the agency, I believe it was on pages 8 and 9, you felt that the addition of a neutral chair would take away the traditional co-operative structure and would also steer away from co-operative participation. I would like to ask you how in your opinion a neutral chair agreed to by both labour

and management as part of the agency, which would make its report to the group—it could be his or her—and would be responsible to it would interfere with the points you have made.

Mr Evans: I come out of an industry. Our union probably has more jointly trustee benefit funds across this country than do most other labour organizations and they run on a bipartite basis and arrive at decisions by consensus. There is no provision for an unbalanced board or for the balance of power to be on one side or the other.

I have been in my union for 33 years. We have been in the jointly trustee benefit fund business operating with bipartite boards for probably over 20 years. There has only ever been, to the best of my knowledge, one arbitration case in Canada. It was on a government-directed subject from Manitoba, from the pension commission in that province. That matter went to arbitration and got resolved before the arbitration process took place.

First of all, I do not think the labour movement, or at least any of the labour movement I hear from, is agreeing that there should be a neutral chair. When you say to me that the chair would be agreed to, I think the labour movement thinks that a bipartite board would get agreement by consensus from the parties. A neutral chair, in my mind, would lead to posturing by either the labour movement or the management group in an attempt to sway the chair to its position, whereas placed in a room by themselves to deal with the subject matters, they would come to a decision that would be in the best interests of the participants, and the participants who are affected by this are the workplace partners, labour and management, in my opinion.

Mr Dietsch: You have not told me how that neutral chair, responsible to those two bodies, workers and employers, would interfere with the working relationship of that committee, how it would change the traditional participation at all. You have told me your opinion on a bipartite chair not being the neutral chair and not being agreed to by labour, but you have not told me any reasons.

If we agree, you and I, to work out our differences—the chairman runs a very nonpartisan chair in this particular committee and we try to work out our differences. The fact of his serving as chairman and guiding us in our deliberations has nothing to do with taking away from traditional methods. At least anything you have told me has not.

Mr Evans: I thought I answered that by saying that in my opinion you would then get posturing

by the two sides of the committee. As opposed to attempting to find a resolution, you would have the committee, one side or the other, attempting to convince the chairman of the righteousness of its cause.

We have just come through some very good hearings conducted by the Canadian Labour Market and Productivity Centre into Bill C-21 on changes to unemployment insurance and the training programs federally, and those committees were not chaired by a neutral party. Labour and management reached agreement in six out of the seven committees.

I think they have done exceedingly well. I think the business community and the labour community in this country can sit down and agree on what is best in their sectors and in their industries and I do not believe that a chairman adds anything to the process. I believe the reverse is true. It takes away from the process, and rather than getting agreement of the parties you are going to have an arbitration imposed before the negotiating process is done.

Mr Dietsch: It is the posturing you are afraid of.

Mr Evans: Yes.

Mr Mackenzie: Just a question that we have asked some of the other groups: in your organization, your union, which has a lot of small plants as well, do you foresee a problem for the companies or for yourself, because obviously it would relate back on the union if it happened, with the illegal or arbitrary use of the right to refuse on the part of workers in the plant?

Mr Evans: No. I think probably Sarah could answer it better than I because she works with it on a day-to-day basis. If you look at our membership, at our record, I think you would not find tomorrow morning a whole bunch of closures by certified health and safety representatives. I think what you would find is a lot more safer workplaces in the province that our members work in.

Ms Shartal: To be more specific than that, the experience we have in my local, local 175633, is that we represent about 45,000 members spread from Kenora to Niagara Falls. The reason they are spread from Kenora to Niagara Falls is because of the small units under master collective agreements. In fact, the right to refuse is terribly important to us because about 80 per cent of the injuries we get are repetitive strain injuries.

We have found that the experience is just the other way around. Workers in small workplaces, particularly in northern Ontario, in isolated areas

in rural Ontario, are so terrified of management to begin with that just getting them to file a workers' comp claim is often like pulling teeth. In my experience, one out of two people, or one out of three people, actually bothers to file. When they are finally pushed to use the right to refuse, it is basically because the situations are so horrendous that they have no other option. At that point it takes like a million phone calls and people saying, "No, nothing is going to happen to you."

Under this legislation the things that affect us in fact make it even worse. It is the things you have heard over and over again. When it comes to things that are long-term disabling effects, we will be actually three steps backwards from where we are now. If anything, we see the situation getting worse for the small workplaces, particularly in the retail and food industry, under this act.

Mr Mackenzie: With respect to our chairman, I want to make sure the delegates understand that his value to the government members and the committee is how well he can keep order in this particular committee. The results we know ahead of time; it is six votes to four.

The Chair: The only thing I really worry about is posturing.

Mr Evans, thank you very much to you and your colleagues for your presentation this afternoon.

Two points before we adjourn: first, the subcommittee decided at noon to wait until next week when the regular clerk, who has done all the previous scheduling, comes back before we start altering any kind of agenda. Second, tomorrow morning the bus leaves out front at eight. It is going to be very tight to get to St Catharines for the 10 o'clock presentation, so I urge members to be there at eight so we can leave spot on.

Mr Carrothers: I will be going directly, so do not look for me.

The Chair: Is anyone else not coming? Mr Dietsch is not coming, Mr Carrothers is not coming and we are picking up Ms Mellor.

Thank you very much. This committee is adjourned until tomorrow at 10, although eight on the bus.

The committee adjourned at 1716.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Vice-Chair: Mackenzie, Bob (Hamilton East NDP)

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Fleet, David (High Park-Swansea L)

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From the Canadian Federation of Independent Business:

Ganong, Linda, Director, Provincial Affairs, Ontario

Botting, Dale, Vice-President, Western Canada

Gray, Brien, Senior Vice-President, Legislative Affairs

From the Ontario Federation of Labour:

Wilson, Gordon, President

Signoretti, Kenneth, Executive Vice-President

From McDonald's Restaurants of Canada Ltd:

Fong, Kenneth M., Vice-President and Corporate Counsel

Ray, Brian, Personnel Supervisor

DeAnna, Mario, Owner-Operator

From the Canadian Paperworkers Union:

Foucault, André, National Representative

Weare, Mark, President, Local 105

Lavallee, Bob, President, Local 528

From the Ontario Natural Gas Association:

Pinnington, Paul E., President

Munkley, Ronald D., Vice-President, System Operations and Engineering, Consumers Gas Co Ltd

From the Canadian Society for Professional Engineers:

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Barry, Dick, National President

Perrotta, Kim, Health and Safety National Representative

From the Council of Ontario Construction Associations:

Frame, David, Executive Vice-President

Deulus, Alex, Chairman

Wright, Douglas, Chairman, Health and Safety Committee

Chalmers, Douglas, President, Ontario General Contractors Association

From the United Food and Commercial Workers International Union:

Evans, Clifford, Canadian Director

Shartal, Sarah, Local 175-633



No. R-2

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development

Occupational Health and Safety Statute Law Amendment Act, 1989



Second Session, 34th Parliament

Tuesday 16 January 1990

Speaker: Honourable Hugh A. Edighoffer

Clerk of the House: Claude L. DesRosiers

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with a list of the members of the committee and other members and witnesses taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday 16 January 1990

The committee met at 1003 in the Churchill Room East, Holiday Inn, St Catharines.

OCCUPATIONAL HEALTH AND SAFETY STATUTE LAW AMENDMENT ACT, 1989 (continued)

Consideration of Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

The Chair: The standing committee on resources development will come to order. May I welcome you all here? This is indeed a public process in which we are engaged, so we are pleased to have you here.

The Ontario Legislature assigned this committee the task of holding public hearings on Bill 208. At the end of the public hearing process we shall be dealing with possible amendments to the bill and then reporting it back to the Legislature when the Legislature goes back into session towards the end of March. In the meantime, we are travelling the province holding hearings.

The committee is comprised of members of all three parties and the makeup of the committee is roughly in proportion to the membership in the Legislature by party affiliation, which means there are six Liberals on the committee, two New Democrats and two Progressive Conservatives.

I will introduce you to members of the committee, because I am sure a lot of us you do not know. My name is Laughren and I represent the riding of Nickel Belt, up near Sudbury.

On my far right is Mike Dietsch from the riding of St Catharines-Brock, who most of you I think will know. David Fleet is from the riding of High Park-Swansea in the west end of Toronto. Doug Carrothers is from the riding of Oakville South. On my immediate right is Gord Miller from the riding of Norfolk. Next to him is Ron Lipsett from the riding of Grey and Jack Riddell from the riding of Huron.

On my left is Sam Cureatz from the riding of Durham East and Margaret Marland from the riding of Mississauga South. On my far left is Bob Mackenzie from the riding of Hamilton East and Shelley Martel from the riding of Sudbury East. From time to time there are substitutions, but that is the makeup of the committee.

We have a full agenda today which will take us right through to five o'clock and we have agreed

as a committee that every group will have 30 minutes. That consists of the presentation, plus an exchange with members of the committee. I do try to be as tough as possible on that, because if we start getting behind, even if it is only five minutes for each presenter, at the end of the day we are way backed up and that is not fair to people at the end of the day. So I will try to be as strict as possible on the time, because in the long haul we all benefit that way.

The first presentation of the day is from the St Catharines and District Labour Council. Rob West is president of that and I believe he is going to lead off and, I hope, introduce his colleagues at the table with him. We can move right into the first presentation.

ST CATHARINES AND DISTRICT LABOUR COUNCIL

Mr West: I am Rob West, president of the St Catharines and District Labour Council and I am a Canadian paperworker. I have with me three other individuals. Gabe MacNally, to my left, is our vice-president of the St Catharines and District Labour Council and he is a Canadian Auto Workers member. To his left we have Claudette Therrien. She is a United Steelworkers of America member and president of their Welland council. I also have Moe Kuzak from CAW Local 199 on my right—I tend to forget about the right sometimes. He will be assisting us in the brief as well. We will endeavour to stay within the time limits and we respect the reasons why.

On behalf of the St Catharines and District Labour Council, we are pleased and confident to be presenting our brief to this committee. We sincerely hope you not only listen but also understand why we are asking for your recommendation to adopt Bill 208, together with the 19 amendments submitted by the Ontario Federation of Labour.

We also wish to make it clear that we are not before you today to imitate professional lobbyists, who tend to speak in the third-party tense of theoretical cases. We are the workers. We are the trade unionists with industrial experience, office experience, service experience, outdoors experience and workplace commonsense experience to be able to explain why we need the occupational

health and safety improvements found in Bill 208, complemented with the OFL amendments. We see the injuries and deaths at first hand. These are people we work with, sometimes for many years. We see the health aspects and defects accumulated over the many years of exposure through the compiling of job seniority.

Since the Ontario Federation of Labour presented its brief yesterday, obviously prior to this meeting, we will only refer to a few of the serious aspects and serious areas that we feel need to be addressed. These are areas the Minister of Labour (Mr Phillips) intends to ignore and backpedal on, or even make ineffective with poor definitions.

While agreeing with the OFL's entire brief, we must stress the following areas. We have listed them in point form, with a little bit of detail. Certainly you will be developing more input over these areas throughout the rest of your briefs.

1. The workplace health and safety agency must remain bipartite if it is expected to be a successful group.

2. Proposing to restrict the individual right to refuse activity is a major step backwards from the present experiences.

3. The gutting of the certified member's right to stop work is appalling. The right to stop work is the right to deal with an immediate threat to a worker's life or health—very simple.

4. All workers in Ontario must be covered by the Occupational Health and Safety Act. To the injured worker, a farming accident, for example, does the same injury and hardship as any other work-related injury.

5. Public sector workers must be assured all rights under the act.

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6. The proposed bipartite agency must determine representation on all organizations receiving funding from the ministry to be consistent in decisions concerning health and safety training and promotion. Labour and management must determine the future of training in health and safety.

7. Workers have the right to be paid if their work is affected by refusal to work, or by a stop-work order whether issued by an inspector or a certified member. Workers must not be penalized for the shutdown of an unsafe work area. Incredible peer pressure would undoubtedly be placed squarely on the certified member to keep the unsafe work area in operation if her or his sisters and brothers are to be penalized financially for the shutdown.

8. Absolutely no worker should be assigned to a job that has been refused, until the refusal is resolved. A tragedy could and in fact has happened in more than one instance of this type of replacement.

I would like to stress, and I cannot stress it strongly enough, you are the people who can make the difference, the people on this committee. You are the legislators, our MPPs. With your support, the minister will have no choice but to place Bill 208 and the OFL amendments before third reading and final passage. Our health conditions and in fact workers' lives are at your discretion.

MPP Michael Dietsch has been quoted as saying, "What we've tried to do is minimize the number of accidents that could have been prevented." "We'd like to have people better trained to avoid these situations," he has said.

We at the St Catharines and District Labour Council are strongly suggesting that adopting the recommendations of our combined presentation is the only way Mr Dietsch and the Ministry of Labour can achieve this unanimously supported goal. Positive action on our recommendations will be your first step. Why would you want to deny the right to save a life?

With that, I will ask Moe Kuzak and then Claudette Therrien to continue along with the presentations. We have included extra particular presentations so that the immediate local effect can be heard, seen and understood. It can best come from the locals and their representatives involved.

Mr Kuzak: Prior to going through the brief, and I am just going to go through it because obviously I do not have the time to do it the way I would like to present it to you. I would like to present and just introduce the president of CAW Local 199 here in St Catharines on behalf of whom this brief is being presented, John Clout, and a gentleman that I will introduce to you in more detail later, Grant Koppers.

I would just like to take a moment and go through this brief with you. As a precursor, I would like to mention that even though I do sit at Rob's right, it does not mean I represent the right here in St Catharines.

Second, we could not help noticing that this is the same committee that met with the people in Ontario on Bill 162. We hope we will be looking at a little more input into Bill 208 than we got on Bill 162. Labour, in essence, ate 162 and we were told that we would have a closer look at 208 and better intentions for labour. We hope that is

what will come out of these meetings as you travel across this province.

I am not going to go into the introduction. Those of you who would like to follow with me, I would just like to read from page 3: "Over the last decade labour has met with representatives of the Ministry of Labour, each time expressing concerns and detailing the problems with the occupational health and safety legislation." Each time, the Ministry of Labour has agreed to make some moves in that direction for us and each time nothing has happened.

This is the first time in the last decade since the introduction of the Occupational Health and Safety Act, other than the introduction of WHMIS, the workplace hazardous materials information system, that we are looking at and hoping to see some advancements in that field.

On page 4 is an abstract of the submission. The reason I am going through this quickly is I understand that the committee will take these submissions being made here today and go over them at its leisure, so I would just like to highlight a couple of things.

This submission will deal with the following amendments: (1) inspections; (2) certified worker-right to stop work; (3) right-to-refuse "activity"; (4) internal responsibility system. This morning, I am basically going to deal with the internal responsibility system and I would like to make a few points in regard to that, starting from page 17 of the submission.

The corporations will tell this committee that the internal responsibility system exists and is functioning well. I am sure you will hear that today. Labour will easily show this committee not only documented areas, as I have prepared in this brief, where the system is not functioning, but incidents where the corporation is using the system to deter the joint health and safety committees from functioning the way they should be functioning.

If you ask the Ministry of Labour, the ministry has no recourse except to agree with labour. That is why we see orders to the employer written by Ministry of Labour inspectors outlining methods to improve, procedures to implement and, even more specifically, directives to establish internal responsibility systems within operating companies in Ontario.

Those submissions, originally in January 1989, by the Minister of Labour at that time, the member for York Centre (Mr Sorbara), require co-chairpersons on the joint committees, require paid preparation time for members of the committee and require certified members on joint

committees, to enable them to shut down unsafe work.

We are not speaking of something that is going on in other countries or in other provinces. We are speaking of something that is taking place right here in Ontario. I have supported that, on pages 18 and 19, with specifics. All the specifics that I refer to in the brief are added to in the appendices: copies of the Ministry of Labour orders, copies of the inspector's assessments, cyclical reviews of the joint health and safety committees, cyclical reviews of the internal responsibility system, all orders supporting the fact that these systems are not functioning in our workplaces.

I would like to take a look at page 21. I want to read a couple of these. My time is limited but a few essentials have to be brought out. At the bottom of page 21, and this is a direct quote from the visiting inspector's assessment review, is point 1:

"The thorough review of the minutes of the JHSC dated 13 April 1989, in addition to previous minutes which indicate that some items of hazard types are not being addressed and corrected on a priority basis." The company is not listening to the joint health and safety committee's recommendations.

2. "The requirements of management and supervision to become more aware, responsive and active to the corrections of hazard conditions, worker training and general work habits throughout the workplace...should result in improved conditions." This is an order from the ministry to the company.

3. "The orders as issued regarding the written assessments for designated substances" should be provided.

4. Most important, "A management consultation meeting was convened as a post-inspection review as well as a specific overview of current concerns and difficulties related to the internal responsibility system and means of training, problem solving and health and safety awareness." Again, this is just to indicate the fact that the system is not functioning.

Six months later, as indicated on page 23, the inspector came in and visited again. He wrote: "The detailed reviews of the monthly meeting minutes of committee activity...with concerns noted and orders as issued related to them, as well as suggested establishment of accountability systems to expedite a more prompt response to hazard items identified." Again, this is only clearly indicating that the company is not working with the joint health and safety commit-

tee and the internal responsibility system is not functioning.

Two months later, the inspector again comes in and writes another order on the internal responsibility system and this time states directly that it is not functioning.

I would like to leave this part of this submission and I would ask the committee to take a look at about 15 pages in from the back. Unfortunately I do not have the appendices numbered, but the title page is "Sam Adelstein and Company" and the second page is a letter from the Ministry of Labour. In the top right-hand corner it says, "Freedom of Information and Privacy Protection Office."

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In May 1989 a university student here in St Catharines went to work for a scrapyard which from the information you will see attached to this appendix has only had a few visits since 1984 by an inspector from the Ministry of Labour. These visits have left a few orders, to make sure the minutes of the joint health and safety committee are kept. He came back again a year later; no minutes. To make sure that more minutes were kept he issued another recommendation in his assessment review, his cyclical review. Again, no minutes were kept. He came back a few months later—I believe it was six months later—and again there were no minutes. This time he left a specific order to the company to keep minutes.

Obviously under the recommendations of the Minister of Labour (Mr Phillips) this company, by the amount of visits the Ministry of Labour made to this company, would fall under the category of a good employer. I do not want to touch that because I do not have enough time to get into it, but before I go into this document I would like to introduce the young man who went to work for this scrapyard and was injured on the job. I would like to explain to you how that injury took place. I would like to introduce Grant Koppers at this time.

I asked Grant to take some photographs, which he has, of what took place or what happened as a result of his accident. I would like Grant to take them around to the committee members so that the committee can have an opportunity to take a look at this as I go through it.

There are just a few things I would like to mention with regard to this. Grant's mother tried to get information from the company on why the accident happened. The company said it did not have any information. She went to the health and safety committee and the health and safety

committee said, "We don't have anything we feel would be of benefit to you." Grant's father knows me, through our high school years. They came and asked me where they could get information. They wrote the freedom of information and privacy protection office and received all the attached data.

I would like to mention that in an order written on 12 September 1984, Mr Adelstein was reminded of the requirements of section 8 of the Occupational Health and Safety Act to keep minutes of the meetings. A year later the inspector came in again and said that no minutes were present for this joint health and safety committee's meetings. Orders were written to the employer to make sure minutes were being kept. If the internal responsibility is functioning the way the minister says it is, why is it necessary to come in and write orders to the company to make sure that system functions?

The documentation will show you, further down, that the inspector was in again, this time requesting that names and photographs of the health and safety committee be posted so people could see them.

The last section, 14 June 1989, four years after the last visit from the ministry—obviously, as I said, indicating a good company—indicates the fact that an accident took place. I feel very concerned about this because I myself have a boy of about the same age who will be looking in the workplace this year for some part-time work before he goes to university.

This young man went to work for the company and was not given any specific directions on how to handle the machine he was working on, which was a steel compactor. Picture a big hole in the floor with a moving floor in the bottom of that hole. You fill it full of steel, you hit a button and that floor comes up and forces all that steel into a specific area up at the top. It makes another trip down. You fill it again, it goes up again and it does this several times to fill the top section. Every time that floor goes up, some angle iron or whatever it is falls down to the bottom of the floor.

Several times prior to this accident Grant had put his whole body, under the direction of the supervisor, underneath that floor to pull out pieces of steel that had fallen down. Fortunately, at that time this accident did not take place. The accident unfortunately did take place when he reached in while the floor was up to pull out a piece of angle iron and the floor came down.

There have been subsequent orders that were written to that company to make amendments to

that piece of equipment to make sure that does not happen in the future. If the internal responsibility system was functioning, it would not be necessary to make those kinds of amendments.

I would like to go into more detail with you but I cannot. I would ask you to take a look at the conclusion of the report, which is on page 25.

I would just like to say briefly that we believe that with the information provided to this committee, a closer look must be taken at the honourable minister's proposed gutting of Bill 208. On page 26 we ask you not to allow the minister to mollify the intent of this specific section of the original legislation as presented in January 1989.

Workers in Ontario need progressive health and safety legislation. Workplace deaths and injuries must be reduced. Through the Minister of Labour, this burden has been put on your shoulders. The reporting of your recommendations will influence the health and safety of the workers in this province for the next decade and beyond.

Ms Therrien: Honourable members of the committee, my name is Claudette Therrien. I am the president of the Niagara Peninsula Area Council, United Steelworkers of America, District 6. I would also like to take the time to introduce to you the many steelworkers, who I ask to stand at this time, to show you the concern that has brought them here today. Would all my fellow steelworkers stand up?

This brief, prepared by the Niagara Peninsula Area Council's committee for Bill 208, focuses on specifics for our area. Let me say on behalf of the 4,000 steelworkers in the Niagara Peninsula, both male and female, that I wish to take this opportunity to address you concerning the proposed amendments to the Occupational Health and Safety Act embodied in Bill 208, and in particular those proposed by the new Minister of Labour but not yet included in the act.

I do not intend to reiterate the official position of the United Steelworkers of America on this issue as I assume this area will be addressed at many other steelworker presentations. I do, however, want to make very clear that we in the peninsula support this official position 100 per cent.

In the short time afforded me, I intend to attack the Minister of Labour's proposed amendments because these amendments clearly pave the way to the past, when workers were undeniably abused, railroaded and were nothing short of chattel to companies.

I also intend to support key amendment proposals made by the OFL in areas that pertain to my area, the peninsula, as well as to boldly propose solutions we feel are worthy of your scrutiny.

I will proceed to page 3 and the right to refuse. Again, here is a case of a number of parties sitting down and hammering out terminology and understanding. Workers now have a tool they can use to ensure they will be working in a safe environment. How can the minister arbitrarily define what activity pertains to this right to refuse? There is only one source that has the training, smarts and knowhow necessary to make this call and that is the worker on the job, not some boss sitting in an office 1,000 feet away or some government official who never ever set foot in a factory or shop.

1030

Let's be frank about this. When that worker loses his arm or leg or even his life, the boss is remorseful for the expected three days or so but is more concerned about replacing the man to get back to full production as fast as possible, and that government official will not even remember the worker's name after a week or two. But the worker will remember. He has an empty sleeve waving in the wind to remind him. In the case of a death, the family will remember; you can be sure about that.

This is why the worker is the only one capable of making such calls, because he alone truly has to accept the consequences.

I will now refer to page 5 under certification. The concept of certifying certain members to be versed in the administering and promoting of safety in the workplace is a positive step. We need professional watchdogs who will hold certificates and be accountable and who will take their expertise with them wherever they may go to work. The training costs in this area definitely are justified.

We believe that restrictions such as those the minister is proposing are a regressive action and should not be allowed to germinate.

Right to shut down: This is one area that hits a nerve here in the peninsula. In 1989 an employee at Gerber Inc in Niagara Falls died. We believe that had this right been in effect, this man would be alive today. Briefly, this man, Mr Gallina, was killed when he touched a live 550-volt bus bar. In the coroner's report—copy enclosed—many suggestions were offered to correct this set of circumstances in the hope it would not happen again.

One point I wish to bring up is that a Mr Dopke, a member of the plant safety committee, had refused to do this work. At that point, had the work been shut down pending investigation and/or corrective action on Mr Dopke's concerns, we feel Mr Gallina would not have been in a dangerous environment; hence he would not have been killed. A brief inspection of the work area would have revealed the exposed bus bar and surely it would have been covered before allowing Mr Gallina to enter that particular area.

It makes no sense whatsoever to allow a worker to refuse to work in an unsafe situation if, on the other hand, the company is allowed the right to shop around to find someone willing, or intimidated into being willing, to do the unsafe work, even at the risk of personal injury or peril.

If a man shuts down a machine and after investigation that machine is found to be safe, all that is lost is dollars to the company. One cannot cry possible abuse if the game plan at the outset clearly states that someone crying wolf without justification may summarily be disciplined.

If, as a result of the investigation, the machine is found to be defective and unsafe, the stoppage would be justified and everyone, including the company, would have benefited.

I will now continue on to page 9 and I will go to my conclusion.

It is our position that we should never ever have to negotiate to keep our rights or better our rights regarding safety. The Ministry of Labour should be willing to make the workplace safe because it is the right thing to do and it is better to collect taxes from a worker for a lifetime, rather than have to lose this reliable and resourceful avenue to produce dollars.

We have been hammering each other for over 50 years to regulate safety rules and regulations and they are still inadequate. I know we have been proved right time after time. Simply look at the Gerber situation. If Bill 208 had been passed at the time of this accident, that man would be alive today. We missed the boat in Mr Gallina's case, but let's not miss it again.

We hope the minister comes to his senses and quits playing games with workers' lives by trying to add all his negative amendments and we urge the minister to pass Bill 208 as it was presented at first reading, along with the 19 positive amendments submitted by the OFL and many other positive amendments proposed by other concerned unions.

I would like to end with this adage, with a slight change as it pertains to workers' safety, safety placed in the minister's hands—once

bitten, shame on me; twice bitten, shame on you, Minister."

Mr MacNally: There are many facts and figures out to support the truth of increasing injuries, but they are all overshadowed and small in comparison when you hear of incidents such as those outlined by Mr Kuzak and Ms Therrien, the real occurrences, the real injuries and the real deaths. For certain you will agree that we all know a friend or relative who has been injured or killed at his workplace.

In closing, we ask you to consider the simple but illustrative fact that there were enough workers injured in Ontario in 1988 to fill Maple Leaf Gardens every night for 30 consecutive nights. The next time you sit back to watch a Leafs game on a Saturday night, watch closely when the camera pans the crowd to show attendance. Just imagine: Everyone within sight is not only injured, but received that injury at work before he got to the Gardens.

These injury statistics are not improving with time. Workers have been waiting 10 years to put forward positive amendments to the Occupational Health and Safety Act, amendments that do not put business before workers' health and safety. Remember, you have the power now, but without the will you may deny the right to save a life.

The Chair: Thank you, Mr West, you and your colleagues. I wish we had time for an exchange with members, but we do not because as I said at the beginning we have a rule that the 30 minutes is what we do.

You have obviously put an enormous amount of work into the presentation on Bill 208. That is obvious. I am sure I speak for all members of the committee that we very much appreciate the work you have done. We all hope that as we go about the province the information we get will help us when we come to the clause-by-clause discussion to determine what, if any, amendments should be made or rejected in the bill.

Mr West: On behalf of our members, we look forward to a positive response.

The Chair: For those people who may not be aware of committees function, on our left is the Hansard operation, which not only operates the microphones but keeps a recording that is then printed in Hansard, which is the recording of the Legislature and its committees. We are also trying—I am not sure this is working—through a telephone hookup to send the proceedings today back to Queen's Park on the internal parliamentary radio channel. We will see; I am not sure that is working buy we are trying.

Mr Carrothers: High technology has come to the committees, has it?

The Chair: High technology has come to the committees. The next presentation is from the Niagara Construction Association. Is Mr Klassen here? Please be seated. A copy of the brief has been distributed to members. Mr Klassen, we welcome you to the committee. The next 30 minutes are yours. If you would introduce the gentleman with you, we could proceed at your speed.

The telephones will be operated by the microphones, so you do not need to worry about pushing the buttons on or off.

1040

NIAGARA CONSTRUCTION ASSOCIATION

Mr Klassen: The gentleman with me is Peter Christensen. He is a director with the Niagara Construction Association and the former treasurer of our organization. He is here with me to present this brief.

I guess I can start by reading the brief that we have in front of us and we will start with the executive summary.

This brief is submitted by the Niagara Construction Association, which represents 260 employers. The association is a member of the Council of Ontario Construction Associations and the Canadian Construction Association.

We are greatly concerned with the proposed amendments to the Occupational Health and Safety Act under Bill 208 and its effect on the construction industry. The principal concerns of the Niagara Construction Association are:

The new safety agency: It is unnecessary to create a new agency and an additional layer of bureaucracy that duplicates other initiatives and which has the potential to reduce safety and increase costs. The construction industry in Ontario will not benefit from this agency.

The Construction Safety Association of Ontario has provided excellent services and programs to construction employers which have resulted in an approximate 47 per cent decrease in accidents in the construction industry in recent years. Because of this record, we believe that the CSAO is the most appropriate body to train certified workers. We also think it is imperative that the CSAO continue to be funded through the surcharge on rate groups specific to the construction industry in order to maintain the high level of performance achieved over 60 years.

Why should your proposed agency be directed by a board with equal representation from

management and organized labour when approximately 70 per cent of Ontario's workforce is not organized? Giving organized labour full control of this board is, in our opinion, totally unjustifiable.

Worker certification and stop-work provisions: The proposed bill gives certified workers the power to stop work for perceived dangerous safety violations. This power of stop-work represents an unacceptable power of one worker over his employer and his fellow employees. This power is currently reserved only for the Ministry of Labour's inspectors. The existing right-to-refuse law effectively protects workers' safety. This government has already increased the number of Ministry of Labour inspectors to adequately enforce our safety and labour laws.

The unique aspects of the construction industry that make the proposed bill unnecessary and unworkable are:

Our industry safety association is accountable, progressive and allows for the participation of workers. It has achieved significant safety results.

Bill 208 is based on the idea of a fixed work site and a constant and structured workforce. These conditions do not exist in our construction industry, where projects can be short and there is daily variation of workers and skills.

Now we will elaborate on it with an introduction.

This brief is submitted by the Niagara Construction Association which, again, represents 260 employers. The association is a member of the Council of Ontario Construction Associations and the Canadian Construction Association.

The Niagara Construction Association strongly backs improving safety standards in the workplace and has actively done so for the last 25 years. We will continue to do so with or without any new legislation. The Niagara Construction Association prides itself on having one of the lowest accident frequency rates in the province of Ontario. The NCA also represents both union and nonunion firms, general and trade contractors, suppliers and manufacturing firms.

We are actively involved in the Canadian Construction Association. One of the board members, who has been a director of the Niagara Construction Association for 20 years, is presently and has been for the past five years a director of the Canadian Construction Association and is a nonunion contractor. He has also served as a director of the Construction Safety Association of Ontario.

We are greatly concerned with the proposed amendments to the Occupational Health and Safety Act under Bill 208 and its effects on the construction industry.

Issue discussion: The Niagara Construction Association recognizes that there are several issues of concern to the construction industry with regard to Bill 208. However, the following issues are two of the major concerns that we would like to address in this brief.

The health and safety agency: We think the creation of the new agency is an unnecessary and counterproductive initiative which will raise costs to employers and, hence, to taxpayers and investors. Once it becomes more economical to build or expand a plant elsewhere, construction and progress will cease in this province. I must emphasize that. It will also strain worker-management relationships.

Bill 208 provides for the agency to be directed by a board with equal representation of management and organized labour, even though organized labour only represents about 35 per cent of our Ontario workforce. This is not democratic and not workable.

The safety record of the Ontario construction industry is the best in the world and has steadily improved over the last 25 years. The responsible force behind this record is the Construction Safety Association of Ontario, along with the co-operative labour-employer approach to work site safety. The provincial labour-management safety committee, along with regional labour-management safety committees, also plays a major role in providing an opportunity for both management and labour to deal with safety-related issues.

The NSA actively participates on the local labour-management safety committee. Our manager is past chairman and is still active, along with one of our directors, on this committee.

Worker certification and stop-work provisions: The current Occupational Health and Safety Act permits an individual the right to refuse work that he or she considers to be dangerous. The proposed amendments to the act provide for a joint health and safety committee with at least one certified employer and employee representative, and the right for any member of the committee to unilaterally stop all work on a work site.

The NSA believes that the unilateral stop-work right as proposed is unnecessary, damaging, creates potential for manipulation by unscrupulous workers and does not necessarily improve worker safety. As workers already have the right

to refuse unsafe work, the cessation of all work at a work site is unnecessary. We are concerned that a worker stop-work provision would not support but would undermine the co-operative atmosphere developed to this point in the construction industry.

The NCA supports programs that will effectively ensure a safer workplace. However, this legislation makes the employer responsible for all the health and safety implementation by virtue of massive fines for noncompliance, while workers and certified safety representatives are subject to no sanctions, yet they are given substantial powers to disrupt work sites, even if no unsafe act occurs. These certified workers must not replace Ministry of Labour inspectors. We think the only fair and unbiased judgement is with these ministry inspectors.

Recommendations: That the CSA of Ontario continues to provide the services, therefore making the new agency unnecessary; that workers' stop-work provision not be implemented, as the workers already have the right to refuse unsafe work.

In conclusion, based on the above discussion, Niagara Construction is opposed to the creation of a new health and safety agency and the workers' stop-work provision. It is our belief that the most efficient and cost-effective method of managing safety concerns is through the services provided by the CSA of Ontario.

The Chair: Mr Mackenzie has a question.

Mr Mackenzie: I have a couple of questions for you, actually. I will be brief. You are representing some 260 construction employers here in the peninsula area. Early in December I had the privilege of being invited, as I have for the last five years, to the provincial building trades convention as one of the guest speakers in Toronto, which represented the building trades from right across the province of Ontario. At that convention the building trades voted darned near unanimously to endorse the original sense of Bill 208 and also to oppose some of the amendments the minister was dealing with.

What I am wondering is how much you are speaking for your workers or how much you are dialoguing with the workers, when you have a unanimous or almost unanimous convention decision that is taking a position exactly opposite to the one you are taking here.

1050

Mr Klassen: With the union building trades?

Mr Mackenzie: That is correct.

Mr Klassen: Myself and Peter here are dealing in the Niagara area, but we have nonunion as well as union workers in our area here, and that is represented in the NCA. If you look at it from a management perspective and you look at it from a nonunion perspective, having discussed this with our workers and what we go through, I think we could safely say that in our area we are in unison. We have one sector, the union sector, which in this situation in Niagara represents a minority situation.

Mr Mackenzie: So you are not in unison, at least with the unionized sector.

Mr Klassen: According to what you are saying, I gather we are not. But in the nonunion sector, between the employer and the employee, we do not have this problem.

Mr Mackenzie: Let me ask you the second question. You are not the first group that has come to us with the argument that some 70 per cent of Ontario's workforce is not organized, and you are certainly referring to it in your own case. Do you think you speak for that unorganized workforce more than, say, the trade union movement would?

Mr Klassen: Yes, I would.

Mr Mackenzie: Then you reject totally what the previous Minister of Labour, Mr Sorbara, said. When asked this question, he certainly ridiculed it and said, and I give you the two exact quotes: "After all, organized labour, the trade unions, hold beliefs that are not diametrically opposed to the interests of other workers. There is not a conflict of interest there."

The minister went on to say that it is difficult to know whom a representative of the unorganized workforce actually speaks for and whom he is accountable to, and I quote again directly from Mr Sorbara: "That is one of the practical difficulties of saying that the workplace health and safety agency needs to have unrepresented workforce representation. It is a contradiction in terms."

I take it then that you reject totally the argument of Mr Sorbara.

Mr Klassen: Let's put it this way. We have in the CCA a nonunion sector, and we are proceeding on our own to bring the nonunion into the fold, into an area where we can say, "Yes, they are represented."

The other thing I would like to mention is that there is quite a difference in attitude between a union and nonunion worker, which makes me feel quite confident in what I am saying.

Mr Mackenzie: I would assume there is. I am not sure he would feel the same protection.

Mr Klassen: And we do spend a lot of time and effort with our people to make sure—

Mr Mackenzie: But in short, your answer is that you do better represent these nonorganized workers than the trade union movement and you reject Mr Sorbara's comments.

Mr Klassen: I am not going to agree with that one way or the other, but I am saying we are making a really good effort on our workers' behalf.

Mr Dietsch: I want to follow along with Mr Mackenzie's line of questioning. You say you represent a number of construction industries that are unionized and some that are nonunionized. Any idea of what percentage you are talking about?

Mr Klassen: Most of our members would be of the nonunionized variety.

Mr Dietsch: Do all the construction industries belong to your organization? Do you have 100 per cent participation of all the construction industries out there belonging to your organization?

Mr Klassen: Yes. We have commercial, industrial and institutional.

Mr Dietsch: So every commercial, industrial and institutional construction company belongs to your association.

Mr Klassen: Let me ask you this: Are you asking, does every trade group, every contractor and every supplier that deals in the commercial and institutional sector of the construction industry belong to our organization 100 per cent?

Mr Dietsch: Yes.

Mr Klassen: I would say no. There are a number of people out there who are not members.

Mr Dietsch: I guess the point I raise is comparable to your speaking on behalf of a number of construction industry organizations or, I should say, companies. You represent a large portion perhaps, but not necessarily all. Following Mr Mackenzie's line, that does not necessarily project the view of all those who are out there—you know, you do not necessarily project a view, as is the question that you do not necessarily project a total view with respect to organized workers.

I want to follow down a little further. In terms of the agency and in terms of belonging to the agency, being unionized representation, and your suggestion that the nonunionized sector

belongs, I am not sure if you are aware that there is a small business advisory committee which will be part of the agency, which could very well have nonunionized representation for that voice. But more particularly, I am interested in your views on how you would see nonunionized work sites as bringing together individuals whom they would put on this agency to balance what you consider, I guess, an out-of-balance perspective.

Mr Klassen: This is one of the things we are attempting to do in the Canadian Construction Association with the nonunion sector. Am I allowed to let Peter discuss that?

Mr Dietsch: Of course.

Mr Klassen: This is one of the things we are working on right now and he is in charge of that right now.

Mr Christensen: Recognizing that the unorganized or nonunion labour force in the construction industry is the majority, the Canadian Construction Association has for the last 12 or 13 years had a unionized contractors' council. We were divided into segments: manufacturers, general contractors, suppliers, trade contractors. The unionized contractors have had a council to represent them to the Canadian Construction Association, which is coast to coast.

It has been only recently, in the last year, that the problem of the voice of the nonunion worker, which accounts for approximately 70 per cent of the construction workers in Canada, has been addressed. The Canadian Construction Association has started a nonunion council which will give the same type of representation in the Canadian construction industry that the union sector has.

Again, the nonunion sector is starting behind, but we feel there is going to be a place for the nonunion people, both the nonunion contractor and his employees, with which to have a setup or an organized group. It is a start.

Mr Dietsch: Just a last question. I am not sure I got an answer on how you would go about choosing what you would consider to be a nonunionized representative to sit on an agency panel. How would you do that and maintain the thought out there?

I guess I am little bit concerned about the fact that whether the individuals are organized or not organized, do they really have a difference of opinion in terms of health and safety?

Mr Christensen: No. I think the worker and the firms have the same concern. The construction industry has a record of reducing accidents, educating both the employer and the employee

on safety aspects. This was in the paper today with regard to lost-time injuries. This came out of the *Globe and Mail* this morning. The industry is fighting for this.

The nonunion worker is not discriminated against. He has made a choice. It is a democracy in the workplace. This worker can work in a unionized environment or he can choose to work in a nonunionized environment. It is not the case where the nonunion worker is being discriminated against and he cannot join the union. There are a number of workers who find it is beneficial for them to work in a nonunion mode.

A nonunion contractor is not getting cheap labour. If you are going to attract quality people, you must attract them with the same benefits, wages and safety of the environment of your work, so as to attract and keep nonunion people. It is a misunderstanding to believe that the nonunion workforce is being downtrodden or put into unsafe areas and is not getting remunerated properly.

Interjection: Bullshit

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Mr Dietsch: What I am trying to draw in my mind is, whether it is you and I or including anyone else in the room who sit down and talk about health and safety issues, does it matter what background we come from in terms of trying to deal with the issue? We may have differences of opinion on how the issue is solved, which quite often happens with my friends opposite. We very often have differences of opinion. But when we deal with the issue in terms of health and safety, does it really matter whether we are organized, whether we are nonorganized, whether we are management or whether we are labour?

Mr Christensen: I believe yes, because the comment I heard behind me is proof that one segment does not quite understand the other segment. Sure there are differences, but I do not think you can specifically say that organized labour can have all of the same views as unorganized labour.

What our brief is trying to say is that we do not believe in a superagency in the construction industry. Maybe for other industries it is viable and needed. We are talking strictly about the construction industry. We do not have a fixed job area or fixed number of people on a site at any one given time. Our workforce does go up and down with demand and we are a flexible workforce. We could be working in the Toronto area, the Orillia area and the Niagara Peninsula, as the demand occurs.

We do not, and neither do our workers, have necessarily the same concerns that maybe those in a fixed industry have. So, in our view, this overall agency is unnecessary and we feel there are going to be problems.

If it is going to go ahead, with equal labour and management as the overseers of this super-agency, it is unfair to have one segment, a small segment which is the unionized labour part, representing all the labour in Ontario. Organized labour is the minority in the construction industry.

I cannot sit here and tell you the mechanism of how, if the construction industry needs this, we are going to address having nonunion labour represented there. I dare say that if there is a will, there is a way to do it. I am telling you now that the Canadian Construction Association at least has addressed the nonunion sector and we are saying that it is 10 years behind the unionized sector.

I would like to think that, yes, in time there is a mechanism where somebody on this board representing labour is going to be able to represent nonunion labour in the same type of way that unionized labour wants to be represented. But it certainly should be an equitable representation, not all one sided and only looking at one-sided views. In every situation there is more than one way of dealing with it. There are certainly concerns and we are speaking strictly from the Niagara Construction Association, our industry here. We cannot speak for the automotive industry in Ontario or the papermill industry. We are giving you an honest view of what the Niagara Construction Association sees and what our genuine concerns are.

Mr Dietsch: We appreciate it.

Mr Carrothers: Much of what I wanted to speak about has already been covered by Mr Mackenzie and Mr Dietsch, but I would like to turn to your comments on the stop work. I take it from what you have said that you feel the individual right to refuse unsafe work is sufficient. I am sure that in many workplaces that is true, in the sense that if somebody refuses work many employers do step in and make rectifications. But it does seem that in some workplaces that is not the case.

Do you really feel we do not need to do something to back up that individual right to refuse work, perhaps through better education or someone who can be in the workplace to advise people they should not do the work or perhaps support them in their position to not do that

work? Do you really feel the way the law presently sits in all workplaces is sufficient.

Mr Klassen: Are you talking about all work within the construction industry?

Mr Carrothers: Perhaps from the perspective of your own industry, because that is who you are speaking for.

Mr Klassen: If he feels that the job is unsafe or whatever, he says, "I cannot do the job." We have that implemented for the time being and I have not seen any problems in the Niagara area on that. Personally, I have had people say to me, "John, I prefer not to do that job." Some of it is because it is not safe. There are people who have a fear of heights; the guy has to walk a steel girder. Steelworkers are used to doing that. If you get a new guy he might look at it and say, "Hey, I cannot do that." You do have instances where a guy does not understand something and we clarify that on the site. We have to.

The basic part of it is the guy has to understand that he can come to me and discuss what options there are. You try to get a dialogue going onsite. What are you asking? Do we want to have the situation where a guy is forced to have a dialogue so you put a gun to his head and that is the way you have dialogue? Or do you want to have a dialogue where a guy says: "Hey, the job is unsafe. I do not feel like doing it. Let's discuss this"? We have that right now and we find that it works.

I will tell you, putting a gun to a guy's head does not get positive results. It does the direct opposite, in my experience. Right now, we have a good rapport. We have the record to prove it. Niagara is right at the top with its safety record, according to Bill McCook. I am one of a number of contractors who had a rebate in workers' compensation because of our safety record.

We have seen a lot of positive results in this. When you have something good going, it is very difficult to see something come in that might destroy it. We have an unknown and we think it is going to destroy what we have, plain and simple. We are pushing for better safety. Safety is a discussion we have morning, noon and night.

Peter can talk for his company, but I know I have had guys who, when they do not find something right, come and talk to me and we get it solved right there.

Mr Carrothers: This law obviously applies in all workplaces across the province in all circumstances. Perhaps some mechanism to allow the clarifications that you say happen in your workplace, or to create some situation where they will happen in all workplaces, is an

improvement to the law. This is what I find myself wondering as I am listening to these representations and as we go through this legislation.

The Chair: Mrs Marland, we are out of time. Did you have a short question?

Mrs Marland: A very short question. We heard from Ms Therrien the concern that people stopping work unnecessarily could cause problems and it could be offset by having people disciplined who, to use her words, "cry wolf." You are saying in your brief that these workers and certified safety representatives are subject to no sanctions. Do you not think that is something that would be easy to resolve?

Mr Klassen: Are you asking us to come up with a sanction mechanism where, if a guy makes a frivolous stop-work order, he or she could be brought to task for his or her action?

Mrs Marland: I am suggesting that if that is the fear of the employer, that it is going to be abused, do you not think there is a punitive condition that can resolve that?

Mr Klassen: Let me answer you this way. From my perspective, if you have seen the damage that can be done and the bill I would present for the damage, I think we would have a very difficult time discussing punitive damages because most workers would be spending the rest of their lives paying for the damage. Why put them in that position, if you understand what I am saying?

The Chair: Thank you very much for your presentation.

The next presentation is from CUPE. The CUPE representatives here are Glenn Norton, Allison Williamson and Ted Mansell. Lady and gentlemen, welcome to the committee this morning. I do not know who the leadoff spokesperson is. If you would just introduce your colleagues, we can proceed.

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CANADIAN UNION OF PUBLIC EMPLOYEES

Mr Norton: My name is Glenn Norton. I am from CUPE Local 1263. With me are Allison Williamson, president of Local 1097, and Ted Mansell, president of Local 150. They will distribute the briefs and then we will proceed.

The Chair: The committee is not going to be short of reading material.

Mr Norton: On behalf of the Canadian Union of Public Employees, Local 1263, we want to thank you for the opportunity to present our brief

on the amendments to the Occupational Health and Safety Act. My name is Glenn Norton. I am a health care aide working at Linhaven Home for the Aged in St Catharines. I am secretary-treasurer of Local 1263, a member of the in-home health and safety committee and a member of the Ontario division health and safety committee. With me today is Pat Freeman, president of Local 1263, and also our recording secretary, Ellen Isherwood.

Our local represents nearly 1,000 members employed in six regional homes for the aged, two private nursing homes, Valley Park Lodge in Niagara Falls, Bestview Health Care Centre in St Catharines and one private retirement home, Niagara Retirement Manor in St Catharines. Our members work as registered nursing assistants, health care aides, dietary aides, housekeeping aides, laundry aides and maintenance workers.

Bill 208 needs to be amended to protect public sector workers and give them the right to refuse and to stop work where unsafe conditions exist. It has in effect denied health care workers the ability to defend themselves in the workplace.

We are everyday people trying to make a living for ourselves and our families. In the workplace we are in daily contact with infectious diseases, violence and subject to back injuries. We too require the right to protect our health, our lives and our livelihood.

Health care workers come in contact with many elderly residents where the possibility of infectious diseases exists, some as simple as the current-day flu virus to the more debilitating hepatitis B, Epstein-Barr and AIDS.

We need the right to protect ourselves on the job with the knowledge of knowing what diseases we are in contact with and the right to protect ourselves with proper equipment such as masks, gloves and appropriate clothing when required. When these proper safeguards are not in place, a law is required that will give us the right to refuse these unsafe conditions.

This local is very concerned with the large numbers of workers with Epstein-Barr and has undertaken an ongoing investigation. Please find enclosed in appendix A of the black brief a summary of what we did on Epstein-Barr; the results of a recent clinic that was held for 24 of our health care workers. This clinic was headed by Dr Roland Wong. If you turn to appendix A, you will find a summary of proposed investigations of chronic fatigue in nursing homes. It gives some statistics. This is going to be an ongoing investigation with this local. I will just give you a minute to look over that.

Mr Dietsch: Which appendix are we talking about?

Mr Norton: Appendix A, infection. It refers to nursing home workers in St Catharines. This is a survey we did of 25 workers in our local. This is going to be ongoing, as you find at the bottom of the next page.

The next thing I would like to touch on in our brief is that in 1985 a brief on violence in the workplace was submitted to the New Democratic Party task force. To date, there has been no action taken.

Many people, not having had an opportunity to work with the elderly, view these people as being very frail, timid and spending most of their time in sedentary-type activities. This is far from the truth. They have extraordinary strength, they strike out with their canes and with their fists, they bite and kick.

Residents diagnosed as having Alzheimer's disease are growing in number. These residents cannot be held responsible for their actions. The attacks on staff can be as minor as verbal abuse or as major as severe physical abuse, for example, kicking, hitting with their fists or with an object they can pick up and throw at you. These outbursts are unpredictable and unprovoked. These residents require very little sleep—it is like the 36-hour day.

When a staff person is working alone with violent and/or aggressive residents, he or she has no means of communicating with another area to get help. In cases where staff have tried to defend themselves, it is the staff member who pays the price in verbal or written reprimands, even to the point of suspension and on occasion being threatened with the possibility of losing his or her job.

I will give you an example. A health care aide was shaving a resident with an electric shaver. This was in a confused ward. The resident spat in the attendant's face. The razor made a nick in the skin and produced a very small amount of blood. The attendant reported the incident to his supervisor, who then reported it to the director of nursing, who in turn reported it to the administrator. The administrator wanted to dismiss the aide immediately. The director of nursing pointed out that his years of service and impeccable work record did not warrant such action. The administrator suspended the attendant for five days without pay. This was certainly not warranted.

In appendix B, if you look in the black brief, there is some stuff there as well. I myself was suspended and I have included in appendix B my arbitration award. I was suspended for two days

for skin tearing a resident's arm who has very fine, fine skin. He was an Alzheimer's resident. I was turning him over in the bed. In the process, he got a skin tear on his arm. As a result, I was suspended for two days. It took two years to go to arbitration. We went to arbitration on the suspension and the two days were given back to me. That is in appendix B, the whole arbitration award by Mr Brown, the arbitrator and the chairperson of that committee.

The reason we have requested this meeting is to take the opportunity—this is something we did to management just two weeks ago, to the regional municipality of Niagara and the regional council—to voice our concerns on the number of back injuries that occur within our workplaces. With the help of our national health and safety representative, Joe Divitt, we have prepared a presentation that we hope will help explain the problems and demonstrate to the employer and regional council that we do have serious problems in the area of back injuries. We also show that the program which is presently in place is less than adequate.

First, we must look at how a back injury affects the workers. It is our belief that workers and their families pay out in both economic loss and human suffering. Back injuries may result in a lifetime of pain. Very often the normal pleasures of playing with one's children or enjoying sports or exercises together is gone.

Frequently, the ability to even earn a living is partially or totally removed. Many of those injured have to take lower-paying jobs and unrewarding, boring jobs. For many, not only does their quality of living deteriorate, but so does their social standing. In a society that judges people on their ability to earn money, those with back injuries who have lost their jobs become social outcasts who suffer the same indignities as those on welfare or unemployment insurance.

I want to summarize by saying that in one of our regional homes, Sunset Haven Home for the Aged, there were 177 incident reports filed. This resulted in 822 lost workdays in the nursing department, 487 lost workdays in dietary, 11 lost workdays in housekeeping, nine lost workdays in laundry, 366 lost workdays in maintenance, 10 lost workdays in activation. This is a total of 1,705 lost workdays in one year in one home. This is the equivalent of 5.5 full-time staff being paid workers' compensation for a one-year period.

Attached please find appendix D, with samples of regional incident reports from Linhaven Home for the Aged.

With the number of lost workdays shown above, it is imperative that the proposed amendments under the Occupational Health and Safety Act for health care facilities, as submitted on 14 July 1987, be adopted in their entirety.

Ms Williamson: On behalf of the Canadian Union of Public Employees, Local 1097, I thank you for the opportunity to present our concerns on the amendments to the Occupational Health and Safety Act and the Workers' Compensation Act.

My name is Allison Williamson. I am a registered nursing assistant working at the Hotel Dieu Hospital in St Catharines. I am president of the local and a member of the joint health and safety committee.

My local represents 400 members working in the service division of the hospital as ambulance attendants, detox attendants, RNAs, orderlies, housekeeping, laundry, dietary, clerical, porters, pharmacy assistants, stores, central supply, receiving, operating room aides and maintenance workers.

Bill 208 needs to be amended to protect the health care workers and give us the right to refuse. We need regulations designed to protect us and give guidelines to the inspectors on what should be a minimum standard of working conditions that health care workers should work under and, if violated, they would be empowered to write orders and to enforce them.

In 1985 or late 1984, the Ministry of Labour approached various unions representing health care workers and employer groups and asked them to jointly develop regulations to the health and safety act that would cover all health care workers in Ontario.

For the next three years, representatives from the Ontario Hospital Association, homes for the aged association, CUPE, Service Employees' International Union, Ontario Nurses' Association and others sat to develop proposed regulations. These regulations were agreed to by all representatives of these organizations and forwarded to the Ministry of Labour for implementation.

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In November 1988 we were notified that the Ontario Hospital Association opposed these regulations, in spite of its representative being in agreement with them, and that they would not be implemented. This leaves all health care workers without regulations designed to protect them.

Enclosed appendix A is the proposed health regulations, dated 14 July 1987. I also have in my submission a summary of the exertion injuries in

nursing for the year 1988-89 at the Hotel Dieu Hospital. This summary indicates the types and causes of the injury and identifies a 30 per cent increase in the number over this period. When reviewing the forms, it was apparent that if the proposed regulations had been in place giving us the right to refuse activities or delay them, most of these injuries would not have occurred.

The other factor causing these injuries is poorly designed equipment and the lack of mechanical lifts. This also would have been covered under the proposed regulations by giving the joint health and safety committee input into selecting properly designed equipment and failure to do this would have been addressed through the regulations.

The right to refuse work or refusal to work alone needs to be given to the health care workers, with the broad definition of "activity" left as proposed. We are not irresponsible people and it would only be exercised when the safety of the worker was jeopardized.

Members of my local have been kicked, punched, knocked down and threatened with knives working in the detoxification centres. While working alone in detox, an attendant was attacked and injured, and it was a family member of the client who helped rescue the worker while waiting for someone to respond to a buzzer from the other detox centre and for the police to arrive. The worker was then off on workers' compensation. It is not a rare incident for nursing staff to be threatened or physically injured by the patients they care for.

Enclosed in appendix B is the Code of Practice for Workers Working Alone, from Winnipeg, Manitoba, which might assist us if we had such legislation.

Present regulations address duties and responsibilities of an inspector, giving inspectors too wide a latitude in the way they perform their job. The Occupational Health and Safety Act requires amending to set stricter regulations and more accountability for the way an inspector performs his job.

Enclosed is appendix C, a letter to Mr Casey dated 22 October 1987, written on my behalf by Joe Divitt. The incident that necessitated this letter took place on 8 August 1987 when an inadequate inspection of the complete hospital took one hour and 20 minutes. Violations to the health and safety of workers took place as we walked and were not noticed by the inspector.

In the lab, a technician punctured an aerosol can and it exploded. The inspector walked on by, I stopped and investigated the incident and took

the can with me. At the next department I put the can in a bag. When we proceeded back to the personnel office, at which time I looked at my watch, as did the manager of physical plant, we commented to each other about the time and how poor the inspection was. I placed the bag on the table in front of the inspector. He paid no attention. He said he would bring his report back the next day. I immediately complained to the chairperson of the health and safety committee.

In response to the letter, Joe Divitt and I met with Mr Middlemiss of the St Catharines office of the industrial branch of the Ministry of Labour. One redress to my complaint was to be another inspection by a different inspector and the inspector who did the first inspection was to be spoken to regarding my concerns and the practices that were not acceptable.

As of 10 January 1990, there has not been another ministry inspection of my workplace. As for the second redress, I will never know what was the outcome. This would indicate that workers' complaints that are justified are not given any consideration that they deserve.

These incidents I have cited are just for the Hotel Dieu but do reflect the type of incidents that are possibly happening in the unorganized workplace with the inspector and in other hospitals, as we all work under the same working conditions.

In conclusion, if the proposed amendments by the government to Bill 208 are accepted, the health care workers' concerns and needs will not be addressed any better than they are at present. This leaves the workers vulnerable to injury and with little redress.

I urge you to give consideration to advising that the proposed health care regulations, dated 14 July 1987, for health care workers be implemented.

Mr Mansell: My name is Ted Mansell. CUPE Local 152 appreciates the opportunity to appear before this standing committee to address its concerns regarding Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

I am head caretaker with the Lincoln County Board of Education and president of CUPE Local 152. With me today in the back of the room behind me are Robert York and Greg Wolfram, both members of my joint health and safety committee.

Local 152 represents over 360 caretakers, maintenance workers, bus drivers and groundskeepers who work for the Lincoln County Board of Education. Clearly we have a legitimate

concern and interest in the government's proposal to amend the Occupational Health and Safety Act. We along with all other school board employees in Ontario look forward to improvements in the existing health and safety legislation of this province.

We welcomed the original Occupational Health and Safety Act as a major improvement in the lives of the working men and women of our school board, but it became obvious very quickly that the concept of the internal responsibility system could not deliver on its promises.

We would like to take this opportunity to share with you today some of the problems that we as health and safety activists have experienced concerning our legislated rights under the act. It is important to remember that if the internal responsibility system worked the way it was intended to, then surely the following frustrations would never have been encountered.

Subsection 8(8) of the act clearly states that it is the right of a worker member of a joint health and safety committee to inspect the physical condition of the workplace not more often than once a month. Under the strictest interpretation of this law, one worker member inspecting 70 buildings on a monthly basis would unquestionably result in a full-time, employer-paid position. As desirable as this may be, it was never our intention to pursue this objective. Instead, it was our belief that as responsible and reasonable committee members, we could put forward a proposal that would address the requirement of workplace inspections while at the same time recognize the employers' reservations concerning time away from our daily work locations.

Under our proposal, schools would be inspected on an annual basis instead of a monthly basis. Furthermore, each worker member of the committee, four in total, would inspect an equal number of schools, as opposed to one worker member doing them all. This arrangement would not only distribute the responsibility and its associated educational value more equally, but would also eliminate any problems concerning the issue of extended absence from our individual work locations.

We sincerely believed that as participants in the internal responsibility system, we were being more than practical and fair. Our employer, however, did not share this view. After repeated attempts to persuade management that our proposal was nothing less than a legislated right which we voluntarily compromised, we had no other choice but to request that the Ministry of Labour be brought in to enforce our rights.

After much heated discussion between our senior management and the manager of the occupational health and safety advisory service, our legal right to workplace inspections was, with great reluctance, finally recognized by our employer. Although this was our first, it certainly would not be our last disappointment with the internal responsibility system.

Subsection 8(12) of the act provides for time spent attending joint health and safety committee meetings to be deemed to be work time for which the worker shall be "paid at his regular or premium rate as may be proper." One of our worker members at that time was an afternoon-shift worker. However, committee meetings were always scheduled during the day which, according to the legislation, entitled this individual to time and a half in accordance with the terms of our collective agreement.

Being as this person was new to the committee, it was almost a year later, while attending a union health and safety course, that it was brought to his attention that the employer should be paying him for his time spent at these meetings. When we brought this up with the employer at the next joint committee meeting, we were shocked when told that moneys had been budgeted a year ago for this individual but had since been spent on something else. In other words, even though the employer knew it was its legal responsibility to pay this person, it was not going to do so unless he discovered he was entitled to payment. Clearly the internal responsibility system is a one-way street.

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Subsection 23(3) of the act clearly states that a supervisor must inform the committee member who represents workers when a worker exercises his or her legal right to refuse dangerous work. At one high school a caretaker notified his supervisor that he was refusing to do dangerous work. The supervisor, accompanied by the health and safety officer of the school board, drove out to the school to investigate the refusal. At no time during the process did either of them notify a worker member of the committee. It was only through a co-worker that the worker member of the committee was finally informed of the job refusal that had taken place, some six hours after the fact.

It is difficult enough having to deal with supervisors who disregard provincial safety laws, but when the employer's health and safety officer chooses to do so, little can be said for the current state of the internal responsibility system.

Subsection 25(1) of the act dictates that the employer must notify the health and safety representative in the event of a death or critical injury in the workplace. Local 152 has been able to identify at least three separate occasions where a critical injury has occurred and the employer has failed to notify the safety representative or the union. We are extremely disappointed with the employers' unwillingness to date to recognize and respond to their legal responsibilities as mandated by the Occupational Health and Safety Act. Something is seriously wrong, and obviously that something is the internal responsibility system.

Local 152 was pleased to learn that the government was introducing Bill 208, as it represents the first major amendment to the Occupational Health and Safety Act in over 10 years. Many aspects of the bill were extremely encouraging, such as the bipartite agency, the certified worker and management members, the right to stop dangerous work, the right to refuse unsafe work activities and an hour's preparation time for worker members of the committee, to name just a few.

Just when it seemed as if the government was finally getting serious about health and safety legislation in Ontario, the Honourable Gerry Phillips, bowing to employer pressures, proposed a number of revised amendments that effectively weaken the original bill.

In order for Bill 208 to be successful, certain revisions will have to be made. The minister has proposed a neutral chairperson, effectively making the bipartite agency a tripartite one. There can be no doubt that the neutral chair would still represent the interests of the government, thereby altering the balance. If the agency is to work as it was originally and rightfully intended to, then the structure must remain completely bipartite.

In regard to refusing unsafe activity, the introduction of the notion of "imminent" hazard or threat is extremely restrictive in nature. In fact, this may prove to ultimately weaken our rights as they currently exist. If "imminent" cannot be substantiated beyond a shadow of a doubt, then we will be forced to address these problems through the joint health and safety committee. History has proved what little can be done if specific regulations do not exist, particularly in areas such as repetitive strain and/or workplace design.

If the internal responsibility system is to truly work, then the certified members' right to stop work must not be diluted. Allowing the certified

management member to start it up again virtually eliminates the whole concept of shutting down an unsafe job. An inspector should be called in before any stop-work order is cancelled. The right to refuse and the right to shut down exist to prevent injuries and deaths. The fact that co-workers are not paid as a result of one of these actions puts a tremendous amount of peer pressure on the worker wishing to exercise his legal rights as guaranteed by law. No worker should be penalized, financially or otherwise, because a co-worker chooses not to engage in a dangerous activity.

Bill 208 requires that the worker members of the joint health and safety committee must come from the actual workplace, but management members need not. This has proved to be extremely frustrating when tradesmen on our committee try to impress upon an administrator from the personnel department the work-related problems we face in the field. We need amendments to the act that require that management members of the committee be from the relevant departments where the workers are employed.

Bill 208 mandates the employer to certify one worker member of the committee. If this is to be truly equal, then Local 152 must have the legal right to select the representative we want to be certified.

As mentioned earlier, a caretaker in one of our high schools exercised his legal right to refuse. Management then had another employee drive halfway across the system to do that job. The employee involved was not picked at random. Six other co-workers at that high school could have been asked but were not. We need an amendment to Bill 208 that will prevent the employer from being able to ask any workers, particularly those who can be easily intimidated, such as probationary employees.

Keeping in line with the internal responsibility system, certified members should have the legal authority to issue improvement or correctional orders. Rather than be forced to constantly call upon a ministry inspector, the certified worker could implement the correction himself. A ministry inspector can then be called if the employer feels it is necessary to appeal the order. This would certainly enhance the whole concept of internal responsibility between the two parties.

Certified members should be obligated under Bill 208 to investigate all workers' complaints. Currently the bill says they "may" investigate. This leaves the certified worker subject to subtle

intimidation by the employer. Coupled with the fact that the present bill does not guarantee that the local can select its own worker member to be certified, the employer certainly has a lot of room to put into place someone who we feel may not act in the best interests of our workers.

Bill 208 has failed to address a very real concern of school board employees. Many of our members work by themselves in schools at night. Through our provincial and national organizations we have worked very hard to get the government to recognize the dangers of working alone. Assaults are a constant threat, as well as accidents that leave our members trapped in buildings until the next morning. Legislation that would address these very legitimate concerns is long overdue.

Finally, the labour members of our committee should be allowed to bring in our own technical advisers. Currently our employer has a full-time, in-house health and safety expert. Although he is very much a member of management, he attends the joint health and safety committee meetings as a nonvoting resource person. As an employer-paid adviser, it is difficult to view this individual as acting in an impartial and neutral capacity. We need amendments to Bill 208 that will allow us to bring in experts and/or technical advisers to the workplace for ourselves.

In conclusion, we ask the committee to think about the fact that currently one worker dies, on average, every working day in Ontario. Enough workers were injured in Ontario in 1988 to fill Maple Leaf Gardens every night for 30 consecutive nights. These statistics prove that the internal responsibility system cannot and does not work unless workers are given greater control over the health and safety of their own environment.

Without that greater control, workers will be forced to rely on the Ministry of Labour to do the job for them. That is of little comfort when one realizes this government has almost twice as many conservation officers protecting fish and wildlife as occupational health and safety inspectors protecting workers. The suggestions we have brought to you by the various labour bodies across Ontario can change that. We ask for your support.

The Chair: Mr Norton, Mr Mansell and Ms Williamson, we thank you very much for your presentation. I wish we had time for exchange, but we do not. It is obvious that you have given us a great deal of material. I hope we can wade through it.

The last presentation of the morning is from the Niagara Home Builders' Association. Is Mr

Kaiser here? I do not think, Mr Kaiser, we have a copy of your brief. Do you have any extra copies?

Mr Kaiser: No, sir. There will be a copy to follow.

NIAGARA HOME BUILDERS' ASSOCIATION

Mr Kaiser: My name is Stephen Kaiser. I am president of the Niagara Home Builders' Association, which is comprised of approximately 100 members from the Niagara area largely responsible for residential construction in the Niagara area.

A little bit of my personal background: I have grown up around residential construction. It was my summer job in high school and university. Following that, I spent nine years with the police force in the Niagara area, and at that time I had a chance to enforce some of the labour laws of our province. So I have seen it from both directions. I am presently the owner of a small building company in the Niagara area employing approximately seven people.

The position of our organization is that we are opposed to the bill in its present form. We are opposed to the creation of another agency that creates a new layer of bureaucracy. Our association is largely made up of small businesses which operate on residential sites that are a constantly changing work environment. Changes would prove costly, cumbersome and inefficient. This is not Toronto. We do not have Toronto problems and we are not asking for Toronto solutions.

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The system in our industry is working well and management and labour are working together. I can say that currently our executive officer of our association belongs to the labour-management health and safety committee, which is under the Construction Safety Association of Ontario. We oppose any measures that side labour against management. Surely the ability of a certified worker to stop work is a provision that sides labour against management.

We are in support of any positive measures that would enhance management and labour working together to improve safety in the workplace. We recognize a strong labour movement in support of this bill, but labour should bear in mind that it may win the battle but lose the war. We are located only a few miles from a country with which we now trade freely, a country with lower costs and a more competitive labour market.

This bill in its present form will not attract new business to Ontario. Coupled with other items, such as the employer health tax, we believe the Ontario government is slowly closing the door, a door that should be held wide open to welcome new business to locate in this province.

Gentlemen, the bottom line is that if a business cannot make profit it will cease to exist and without business there cannot be a labour force. Give management the ultimate responsibility, as we have had in the past, and let us expand a program of working together, both employer and employee, towards a safer workplace. Thank you. My comments are brief but our position is clear.

The Chair: It certainly is. Are there any questions from members of the committee for Mr. Kaiser?

Mrs Marland: I got a nice wink from one of the ladies in the audience when you said "gentlemen."

Mr Kaiser: I am sorry.

Mrs Marland: It is all right. I will not be offended because I have two sons and grew up with three brothers and I put up with this tribe all the time. I am a Progressive Conservative member of this committee and obviously your comments hit home, especially when you were talking about the competitive nature of your industry. You talk about the imposition of the employer health tax, which our party fought right down to the ground before it was passed.

I do not have the benefit of the experience you have of being in the construction industry. When we hear about the risk to the job site by people refusing to work and declaring a job site unsafe, in terms of the progress of that company's job, do you not feel there should be a compromise sawoff somewhere, where if that is the main fear of the employer, the legislation can address that fear with some kind of punitive condition where, to use again one of our earlier presenter's words, someone who might cry wolf simply will not do it because of the risk of punitive measures as a result of stopping the work unnecessarily?

Mr Kaiser: My understanding of the system the way it is now, and I have seen it work, in effect is that basically a phone call can bring the labour board to attend a site. In turn, the labour board inspects the site and charges are laid accordingly if they are warranted. In regard to your question, I think those things are already in place at this point in time. There is protection for the worker within the construction site.

Mrs Marland: I had a nephew severely injured this summer in a summer part-time job situation. I think that when we look at the risks of these kinds of jobs, we all share responsibility in making sure those people are protected. I am not saying at this point that my opposition to the bill is based on all the same reasons the New Democratic Party has for opposing it, but when you say that the—

Miss Martel: Do not say that, Margaret; you are getting me worried.

Mrs Marland: I supported you on Bill 162.

Miss Martel: That's true.

Mrs Marland: You look at an example in one of the briefs this morning, which I think had something like five or six inspections when there was a question on a work site. You just mentioned that a call to the board brings somebody right away. We have examples where deficiencies have been identified over and over again. We have just had this presented to us, so I do not know whether it is a small firm. You are talking about an employer of seven people in your particular experience.

Mr Kaiser: That is correct.

Mrs Marland: What you feel is that if the protection is there now and the inspector comes and an examination of the site takes place, that worker is protected even though the inspector may not be back for some time and you may be short of people and have to get on with the job and have to put somebody back into that work position. Do you still think there is enough protection built in in the present system?

Mr Kaiser: I think that under the present system, if labour and management can work together as we are working together in our industry now, certainly if there are infractions those should be met with and dealt with accordingly under the laws, the fines and stop-work provisions that are in place now. I do not think a worker should be forced to work in an unsafe work environment, but we believe those things are in place now.

Mr Mackenzie: Why is it that you feel you can better represent the rights of the unorganized workers—you are in an unorganized sector in terms of house-building—better than the workers themselves?

Mr Kaiser: In our workplace, as I said, the work environment changes daily. Different trades show up and different trades leave. From what I have seen in our industry there seems to be more of a push by management towards safety rather than by the workforce. That is what we

have tried to hand down. Barriers that are put up seem to disappear for the ease of the trade coming in and it is our responsibility to put them back up. We are in charge of co-ordinating all the trades on the job site and hence we would like the responsibility for safety left in our hands.

Mr Mackenzie: You have not used the numbers some others have used in terms of the much safer, much improved safety in the construction sector; it was specifically the unorganized sector that we were talking about. I know the labour movement is currently looking at some studies that indicate there is much more burying of claims in unorganized plants than there is in organized plants. I would be very surprised if that did not hold true in the unorganized construction industry as well. It is going to be interesting when we get some of that information out in public.

The other thing that bothered me in your presentation, and I am anxious to actually see it—I am old enough to be reminded of a Second World War call that bothered an awful lot of people and that was "Peace at any price." Your brief almost says "Work at any price." I am wondering if that does not bother you just a little bit.

Mr Kaiser: I do not think we are saying "Work at any price." We are asking the government to keep a healthy work environment. We feel the controls are in place at this present time. We do not feel there is a need, for instance, for a stop-work provision. We are against that.

Mr Mackenzie: You do not feel that the evidence that is being presented to us daily and has been for a number of years, let alone since the beginning of this committee, of work orders not carried out. There are some 600 work orders in one Toronto plant, I can recall recently, that resulted in 3,000 workers finally walking out because they were never enforced. There are the examples we have been given here today of work orders not being enforced. Does it not say there is something wrong with the so-called internal responsibility system?

Mr Kaiser: We are speaking on behalf of our industry. As I say, it is not a plant of 3,000 workers and the actual work environment changes daily. We are not within the same work environment. In the actual construction—we are talking about residential construction—there are stages we go through where there are actually unsafe stages; for instance, a stairwell left open. At one point, a stairwell is left open but it is endeavoured to close it in as quickly as possible. That is what we are saying. Our environment

changes daily and we do not feel this applies to us in total.

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Mr Mackenzie: I recognize, as I said in my question, that you are operating with a nonunion workforce, but I wonder how you would respond to the question I asked the previous group. The previous builders' group was largely unorganized, but they did represent some union people. Why would they presume to speak for all their workers when the construction trades themselves, overwhelmingly at their recent convention, endorsed this bill and opposed some of the amendments the government wants to move on it? That is why I am really asking how you think you are speaking for those workers. Would they not be represented just as well by organized workers as they would by management?

Mr Kaiser: I am sorry, your question again is—

Mr Mackenzie: Would those workers not be as likely to be represented by organized labour, which has taken this position, as they would by management, which you clearly are?

Mr Kaiser: No, we feel in management that we can represent them and we are endeavouring to represent them and are taking measures to represent them further.

Mr Carrothers: I wonder if I could ask a couple of general questions, following perhaps a little bit on Mr Mackenzie's line of questioning. It seems that in your workplace there is a lot of co-operation and you are paying a great deal of attention to safety, but it also seems that in many other workplaces in this province that co-operation is not there.

I guess what you said to us is that the present law works and if that there is a difficulty, call in an inspector. There are several hundred thousand workplaces in this province. I forget the exact number, but I think there are 200,000 or 300,000 individual workplaces. I wonder if it is really feasible that in the all cases of disputes you call in some sort of ministerial referee. I have to think the numbers would be extensive in order to get a quick response.

I wonder if you do not feel we need to do something to strengthen the present law, which says an individual can stop work if he feels there is an unsafe situation, but there is really nothing to back him up either in arguing that case or perhaps even giving him some information about what might be unsafe if he does not realize it. I wonder if you really feel the law is sufficient. Maybe I am asking you to postulate a bit on

industries outside your own, because you are in a very small one and it may be a special case, but the evidence we have seen certainly says to me that we need to do something. I wonder if you do not agree.

Mr Kaiser: I think I would agree on your position, but the problem with the proposal is that it encompasses everything. It treats everything as if it is a major construction project or a major industry. I agree with some of the comments made before, that in different industries it is apropos. But if we look at this ever-changing job site that we have in the industry, it does not fit for us.

Mrs Marland: I am really interested in your example. I do not know what the figures are, but obviously we have thousands of people working in small organizations such as yours. Do you have difficulty getting people to work on your job sites in terms of the availability of people who work in those trades?

The reason I ask that is that if you allowed unsafe situations to exist at your job sites in that location, wherever you are in the Niagara Peninsula, would workers be able to walk off your job and go and find other opportunities for employment or is the employment opportunity such that even though they are at risk working for you, they have to continue working there because there are not other jobs for them?

Mr Kaiser: In the past four or five years we have enjoyed boom years throughout the province. It is my understanding, and especially in my area I know it is the case, that there is a shortage of basically all trades at the present time. In answer to your question, I would say at the present time that, yes, there are other jobs they could go to.

Mrs Marland: So they would not need the protection of this bill if they were not happy working for you in an unsafe situation. They could go and work somewhere else.

Mr Kaiser: I do not think we can address—this is just treating the situation for this year. Times could change but at the present time, to answer your question, yes.

Mr Mackenzie: How many employees did you say you have in your operation?

Mr Kaiser: It fluctuates. At the current time it is seven.

Mr Mackenzie: In effect you are practically uncovered by the current legislation, or would be almost uncovered by the current legislation. It requires 20 workers or three months, which is going to change to 50 workers and six months, or

may change unfortunately. Why would you feel obligated to make the kind of presentation you have made against this bill when it is going to have very little effect on you?

Mr Kaiser: It has very little effect on my company. There are some grey areas we still need answers to in terms of the number of people working on a project. Obviously I only employ that number of people, but there would be many more people working on it if we take a house, for example, and the construction time of a custom home is now over six months.

Mr Mackenzie: There was a brief reference made to some of the arguments. There is another argument I had not quoted that was made by the previous Minister of Labour in refuting the changes we are now dealing with in this bill was. I give you the direct quote from Mr Sorbara, "Either we can hire every fourth person in the province to serve as a labour inspector, or we can begin a process which in the fullness of time, when fully in bloom, will give us a system where the workplace parties themselves are taking more responsibility."

That was certainly an argument for the internal responsibility situation that we have and not for the calling in of inspectors every time we have a problem in the workplace. I am just curious why it seems to have been the building construction trades. I know I personally had almost 100 letters from you people that directed this campaign, largely to Premier Peterson, and obviously successfully because Mr Sorbara's comments no longer hold water. We now have these major changes to the bill. I am curious, especially when people like you are really not going to be affected by it.

Mr Kaiser: That remains to be seen, I think.

The Chair: Thank you very much for your presentation. We would appreciate it if you could either send us a copy or leave a copy with the clerk.

Mr Kaiser: We will send in a copy.

The Chair: That concludes the presentations for this morning. We are adjourned until 2 pm this afternoon. The room will be made secure, so you can leave your stuff here in the room.

The committee recessed at 1157.

AFTERNOON SITTING

The committee resumed at 1401 in the Churchill Room East, Holiday Inn, St Catharines, Ontario.

The Chair: The standing committee on resources development will come to order. Just before we start, as many people will know, there were a lot more trade union locals, companies and umbrella groups that wanted to make presentations to the committee and could not because there was simply not enough time, not enough days to do it, and we could not expand the time because the Legislature gave us the number of weeks we could sit. So there are many people who have sent in written briefs and they will be distributed to the committee. One I am going to be distributing to the committee right now is from the Canadian Paperworkers Union from the Niagara region. I will distribute copies to members of the committee now.

The first presentation of the afternoon is from the Ontario Marine and Engineering Employers' Advisory. Is Mr Fielding here? Mr Huneault? If you would take a seat and make yourselves comfortable, your brief has been distributed to members. Whenever you are ready to go, you may begin.

ONTARIO MARINE AND ENGINEERING EMPLOYERS' ADVISORY

Mr Fielding: Let me first of all apologize to the ladies, as we have addressed our brief wrongly. We really did not know who we would be addressing today.

Before I start into the brief, this book that I have beside me here represents four years of work on the part of the ship owners, the Canadian Coast Guard ship safety branch and the Department of Labour. For four years they met in Ottawa and they drafted up this set of regulations, which are the marine occupational health and safety regulations. They came into force in 1987 and we have been guided by them. The people who administer the regulations are from the coast guard ship safety branch.

If I can start now on the brief, ship repairing is probably one of the oldest professions in Canada. At this present juncture in time it is suffering very badly, as the shipping industry is. Shipyards have closed and the shipping companies today are carrying cargoes at the same rates as they did 20 years ago. Therefore, it reflects on to the repair industry that we must compete the same way. Profit margins are very slim, and there is a

very delicate ecosystem which it would be very easy to upset and destroy.

The proposal before the House may very well be that imbalance which we all fear. Ship repairing is a very unique, complex industry which has evolved over the years. It also has its own unique language, understood by few unless they are directly involved in the industry. Our industry calls for a very high level of qualification of design and inspection, and to think that someone from another branch of industry, highly qualified as he may be, can go on board a ship and understand what is happening is a very tall order. I am quite sure that if any of you have been on board a ship and if any of you have been actually inside a ship, it is a pretty awesome experience to see the place.

My main fear is that introducing people who do not understand the industry will turn the safety clock back 25 or 30 years, because as the techniques in ship repairing evolve, so do the safety practices. We do keep up to date, and Labour Canada and the coast guard regulate that very strictly. My worry is that somebody will be very badly injured or maybe even killed if we have inexperienced people coming on board ships.

We in the ship repair industry are in no way trying to avoid regulation and inspection, because at present we are very strictly regulated by Labour Canada and the occupational health and safety act—marine. As I said at the beginning, it was seen by Labour Canada to be a very unique industry and to merit spending the amount of time and money that it did in drawing up its own marine regulations. Those regulations were drawn up by Labour Canada, the ship owners, the ships' officers and the labour unions involved, and it was agreed by all parties that the in-house experts, who are coast guard ship safety branch, would administer those regulations.

Before that time, coast guard was responsible for the ship's safety, the actual safety of the vessel itself, and there are very stringent regulations and reporting to coast guard. They are always on board the vessel and it seemed only logical that those people should administer the safety regulations for the personnel on board the vessel.

The people who are in coast guard ship safety branch are all qualified people. They are either naval architects with field experience, ships' captains with a master mariner's licence or chief

engineers with a licence, all of whom are recognized internationally and all of whom at some time throughout their careers have had firsthand experience in occupational health and safety.

In the field of ship repair and maintenance, it is not as straightforward as many people may think. When the ships are being repaired, they are not always stationary. They are moving between jurisdictions and they trade from Nova Scotia right through to Thunder Bay and across into the United States. Canadian Coast Guard has jurisdiction over us the whole time we are there. Sometimes a project will start in Ontario and it will pass through many jurisdictions before it is completed. Therefore, it makes things very difficult for someone who is stationed locally in Ontario to cover the project at all times.

What Bill 208 is proposing is a duplication of those regulations, a duplication of inspections and a duplication of reporting. It is not even a belt and suspender situation, because we already have that with coast guard and Labour Canada.

We can see the feasibility of provincial legislation covering drydocks, where the ship is stationary, where it is in dock, because the ship arrives there and it sits on dry land. If they want to get access to any part of that vessel, they simply cut a hole in it. At that point, it just becomes a large steel structure. It is no longer a ship. It is the same when they are building a ship. They build it on dry land and they leave off all sorts of plates for easy access to where they want to get.

1410

In the afloat repair situation, we have a regulatory body which applies the same rules and, most importantly, interprets the rules the same wherever we are in the seaway system and which must be able to respond at any time, day or night, 365 days a year. The cost for holding up a vessel is quite considerable. It can range from \$1,000 an hour to \$1,500 an hour. The coast guard is already well attuned to that and it responds immediately.

At present there is a letter of understanding from the Minister of Labour of Canada to the Minister of Transport of Canada covering jurisdictional issues, and members of the Coast Guard ship safety branch are the only people recognized as qualified to do the job everywhere; except in the drydocks, it is recognized as a provincial jurisdiction.

The last thing we want to see, and it is a very real fear because people do not understand the industry, is that while they are making their

learning errors, we will lose jobs in Ontario to some other jurisdiction. It is very easy for a ship owner to simply move his ship into another jurisdiction where life is less complicated and, in turn, less expensive.

The drydocks have made representation on this bill at an earlier hearing, I believe, and wish to have provincial legislation apply to their establishments. That is fine; it suits their operation. But for the other repair and maintenance industries, it will create more problems than it will solve. As I have already explained, the amendment going through as is would only open up a Pandora's box.

If subsection 6 read, "a ship under construction or under repair 'in a drydock' will be treated as a project and will be subject to the provisions of the act," etc, this would satisfy the situation of the drydock people and avoid the duplication of services to the rest of the ship repair and maintenance industry, which in turn would avoid an additional burden to the Ontario taxpayer.

The Chair: Thank you, Mr Fielding and Mr Huneault. I do not know about other members, but I feel I am being educated this afternoon on this one. It is something I had never thought about.

What are you referring to in subsection 6 at the very last of your brief? I was trying to find it in the bill.

Mr Dietsch: Page 2 of the bill, about a quarter down the page, under definitions.

The Chair: Okay. Mr Fielding, you are talking only about the repair business here now, are you? Repair business when it is not in drydock?

Mr Fielding: Yes.

The Chair: Is there a separate association for that?

Mr Fielding: No, we are also with the drydock people.

The Chair: I see, and the drydock people are quite happy to have this apply.

Mr Fielding: They are very happy to have it apply to the drydock, yes. They are members of our association.

The Chair: But do you think a part of it should be hived off when it is not in drydock?

Mr Fielding: Well, yes, because just simply putting the word "repair" in there covers everything that we do, whereas if we make the definitions of "repair" and "drydock," then there is a very specific place that repair takes place.

The Chair: That is interesting. Mrs Marland?

Mrs Marland: I think you pretty well covered it. I too want to say that I very much appreciate your being here because it was not anything that I had any knowledge of and I am happy to admit to that. So it is important that you are here.

If that is your only concern, I think that—we do not have anybody here from the ministry who can answer that question about whether that was looked at, do we?

The Chair: No. Mr Dietsch is parliamentary assistant to the Minister of Labour and Mr Carrothers is parliamentary assistant to the Minister of Industry, Trade and Technology, but I will not speak for them.

Mrs Marland: I think you said you had met with the ministry previously. Do you know if this concern was discussed, and has it been ignored or is it going to be addressed?

Mr Dietsch: I can answer that if you like.

The Chair: Yes, please.

Mr Dietsch: The concern certainly is being looked at. The concern is being brought forward and Ian is aware of its being looked at, the definitions.

Mr Fielding: The drydock people did make representation at some previous meeting. They are quite willing, and in fact are wanting the provincial regulation to apply to the drydock situation.

Mrs Marland: It seems to be common sense. It also follows that if you want to avoid it in the other situation, you just have to move away a little or travel on and you get into another jurisdiction and you can suit yourself.

Mr Fielding: Not really, because the Department of Labour of Canada, with the Canadian Coast Guard, covers every jurisdiction.

Mrs Marland: I meant that you could suit yourself in ignoring this bill.

Mr Fielding: Oh, I see. Sorry.

Mrs Marland: It makes sense to amend the bill to address your concern. It was very interesting. Thank you.

Mr Cureatz: Could I have a supplementary? Just on that, if the bill were passed unamended, could you envision how the committee would be set up? It would seem awfully cumbersome to try to get an organization that is trying to do the inspection if the ship is moving.

Mr Fielding: Yes.

Mr Cureatz: Is that sort of part of it? I can understand some of the other problems. I can see some of the practical problems.

Mr Fielding: Yes. One of our main fears is that we work on a 24-hour-a-day basis, and it is very difficult at the moment to organize one group of people to be there at a specific time. It would be almost impossible if there were two jurisdictions looking after it.

Mrs Marland: So it is a loss of jobs for Ontario.

Mr Fielding: It could be, yes.

Mr Dietsch: I wonder if you would be so kind, for the benefit of the committee, as to walk the committee through a scenario in terms of a repair situation. As I understand your presentation, there is no difficulty with a boat that would be put into drydock, one that would be raised from the water. The difficulty comes in terms of smaller repair jobs that could be done, as you refer to it in the shipping industry, at the wall. For the benefit of the committee, I wonder if you might just explain those kinds of repairs, what happens.

Mr Fielding: Occasionally, during the sailing season, an incident will occur on board a vessel and we will get a call to go out to the vessel. She may be tied up for eight hours, 10 hours, 20 hours, whatever it is, in the canal, but they try to get the ship moving as quickly as possible. Normally what we will do is put a crew on board the ship to sail with the ship, if it is at all possible, to carry out that repair work while the ship is sailing, and the crew will move from here.

The normal trade is Thunder Bay or Duluth, Minnesota down to Montreal and Sept-Îles, so they trade through that seaway system. We have to be covered everywhere. There are various points in time that we have to call the coast guard on board to inspect the work. They will be there, and at that particular time they will also be able to look after the personnel on board the ship. They do it for the ship's crew. Many of our people spend as much time on board the ship as the ship's crew does.

Mr Dietsch: The other point I wanted to raise is in relation to concerns of safety and health of an employee who may be carrying out some of those repairs on the ship. Can you tell me, is there someone present from the safety branch who makes sure that these repairs are in fact carried out in a safe manner and that safety is the ultimate first concern while these repairs are being carried out?

Mr Fielding: Yes. Before we—

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Mr Fielding: Yes. Before we start any of the repairs there is always somebody from the coast guard present who goes through the repair with

us. They have only been in charge of this side of the situation for two years. They will go through the schedule of work with you, make sure that everything is in place and at any time when that ship is passing through they can come on board the vessel and check that you are adhering to their regulations. So as much as is practical, they are on board the vessel.

Mr Dietsch: I just point that out for the benefit of the committee members so that they will have an understanding that in fact the health and safety of the people carrying out the work is being monitored by coast guard services. It is not as if safety is not being looked after. The jurisdictional problem in terms of a ship that might be going from Thunder Bay to Minnesota, recognizing the exchange between international waters, would be an extremely difficult point, as you are pointing out, for enforcement.

The Chair: In the interests of the internal responsibility system, what kind of committee system do you have to make it a joint responsibility?

Mr Fielding: When we actually go on board the vessel, at certain times we will sign on as supernumerary crew. Therefore the safety committee on board the ship will also be looking after any personnel who come on board the vessel.

The Chair: Is that a bipartite mandatory committee?

Mr Fielding: Yes.

Mr Mackenzie: I take it that at the moment, other than in the drydock, you are under the jurisdiction of the Department of Labour of Canada.

Mr Fielding: That is correct.

Mr Mackenzie: Are the workers organized in your business? Are they represented by a union?

Mr Fielding: I am only the president of this organization. Yes, most of the businesses within the group are regulated by union rules.

Mr Mackenzie: Would these workers be involved in repetitive repair jobs when they are doing a repair job on a ship, in other words, the same kind of problem might occur and the same repair or work gang would work on different ships doing that kind of job over the course of a year?

Mr Fielding: Yes.

Mr Mackenzie: You may have a case. I am not satisfied in my own mind yet for the argument you are making. What would be wrong with having some of those workers who are doing these repetitive jobs over and over again as

certified members or having some responsibility on a repair job as well as in a drydock situation? Surely the expertise may be there with the Canadian Coast Guard. I have no reason to believe it would not. I have sailed myself and have some experience in that respect. It also seems to me that any number of the workers who are working for a number of years for your firm might have every bit as much knowledge in terms of what is or is not healthy and safe in that particular operation.

Mr Fielding: Maybe Mr Huneault could address that.

Mr Huneault: If I understand your point or your question, Mr Mackenzie, in actual fact those of us who are regulated with the unions have our own safety committees. Of course when they are on board a ship, if we have, say, one individual who is acting as a lead hand, he is in fact acting on behalf of the employees in relation to safety concerns as well. Maybe I do not quite fully understand the point.

Mr Mackenzie: I am just wondering, what is the benefit of being exempted and leaving the responsibility totally up to the coast guard, when it may very well be that the workers who are doing the repair jobs on the ships, wherever the occasion is, are doing the same jobs and have been for a number of years and might know what is safe or what is not safe every bit as much as one of the coast guard representatives?

Mr Huneault: In actual fact we would certainly agree with that. I suppose we might say that we think it is probably—

Mr Mackenzie: If that is the case, why exempt them? That is all I am saying. Why exempt your people from this legislation?

Mr Huneault: I think our main concern is the duplication of having two regulatory bodies looking at things maybe differently and just causing more chaos than need be.

Mr Mackenzie: That might be a better approach for this committee, to look at the fact that you already have the safety regulations in place, provided they are there, and an organization that for all I know may be doing it better than exists in many of our plants or operations. I just have some reservations about a blanket request to remove yourselves from the jurisdiction of the bill.

Mr Fielding: Could I maybe address the situation? One of the problems is that we are not in charge of the workplace. The workplace is a federal jurisdiction.

Mr Mackenzie: It would be the captain if you are travelling, I think.

Mr Fielding: That is right. What we feel is that if it is all under federal jurisdiction, then the one big stick takes care of everything. If the coast guard comes and boards the ship and sees something wrong and demands it be fixed, then we do not have to get into jurisdictional arguments as to who is to fix it and who is not to fix it; it all comes under the coast guard and the Department of Labour.

Mr Mackenzie: There may be a number of ways that could be dealt with but I will leave it at the moment.

Mr Fleet: I would like to clarify something. Under the existing act, if a ship is afloat and there is work being done on it, is it your position that is covered solely under federal jurisdiction?

Mr Fielding: That seems to be a grey area at the moment. In the past it has been treated as federal.

Mr Fleet: I wonder if it might be appropriate if we were to ask our researcher to provide us with information about what the existing jurisdiction is, because there is not much point in dealing with the question of exemption under the act if it is not applicable. I personally thought it would have been under federal jurisdiction when it was afloat and not when it was not afloat, and that would be the demarcation, but if it is not clear—

Mr Fielding: That was always the understanding in the past. It always has been the understanding that when the ship was on dry land it was provincial and that when it was floating in a federal body of water it was federal. That was always the understanding in the past.

The Chair: It is going to be over a month before we get to the actual amendment process of this bill anyway. In the interim, I think that is a healthy suggestion. We will get Lorraine Luski to dig up the jurisdictional information on it so that the committee knows, when it comes to clause-by-clause debate, whether an amendment is appropriate.

Thank you very much for your presentation.

Mrs Marland: I think we should maybe spend a couple of weeks on the lakes, on a ship, and do a first-person investigation of the conditions.

Mr Huneault: You would be most welcome.

The Chair: We could strike a one-person subcommittee, Mrs Marland.

Mr Fleet: Margaret, you don't have to be in the water to be with a fleet.

Mrs Marland: Not bad, David.

The Chair: The next presentation is from the Ontario Public Service Employees Union. Gentlemen, we welcome you to the committee this afternoon. If you will introduce yourselves we can proceed.

1430

ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCALS 214, 248 AND 220

Mr Soto: My name is Greg Soto and I am the vice-president of the Ontario Public Service Employees Union, Local 214. I would also like at this time to introduce my two co-speakers today. On my left is Russel Selkirk of Local 248, and on my right is Rob Kinnear of Local 220.

Besides membership in the Ontario Public Service Employees Union, the three of us before you this afternoon share the same employer, namely, the government of Ontario. That makes us, indirectly, your employees. We hope that our concerns will receive a fairer hearing today than they have had to date from the bureaucrats for whom we work.

We want to tell you of our concerns about Bill 208. First, we would like you to know that we agree with the Ontario Federation of Labour's criticism of the bill. We also support the Ontario Federation of Labour's recommendations for changes. We believe that the bill, as it is drafted now, and the recommendations of the Minister of Labour (Mr Phillips) do not address the concerns of workers. To illustrate this, we would like to talk about some of the conditions we face in our jobs and explain how some of the proposed legislation fails to protect us.

We represent two large groups of public sector workers, ambulance officers and correctional services workers. I will start with ambulance services; that is the experience I know best. I am an ambulance officer and a paramedic working in the ambulance service in Welland.

Our job as ambulance officers involve the transport and medical care of severely injured accident victims and people suffering from a wide variety of acute and chronic illnesses. Moreover, our duties have increased in the past two years in the region of Niagara to include such paramedical skills as defibrillation.

In the course of our work we are exposed to a great many serious and life threatening hazards. When we pick up and deliver patients there is a high risk due to traffic hazards. Many of the people in our care carry infectious diseases that we may not even know they have at the time we have contact with them. We are constantly

engaged in heavy lifting and carrying equipment and patients under the worst conditions. We handle dangerous compressed gases and we can be exposed to toxic chemicals. Many times we arrive at the scene of hazardous accidents whose hazards have not yet been determined or properly controlled. Often we have to enter into those situations and treat patients.

Let me tell you about the conditions at the base I work at in Welland. This building is a converted radiator repair shop that has improper heating and ventilation. We have been in this facility since 1987. The ministry says there is no money to build a new base. The fibreglass insulation that lines the top of the roof of the office inside the base is freely exposed. There are a number of other problems with this facility I will not go into in detail. Suffice it to say that whenever we look for repairs the position of the ministry is that there are no funds available.

Many of my workmates suffer from chronic back disease and acute back injury as a result of routine heavy lifting with badly designed equipment and from sitting too long on poorly constructed vehicle seats.

I can relate very personally to this as I am currently on compensation for the fourth time as a result of back muscle strain from heavy lifting. The Ministry of Health has rejected all our efforts as ambulance officers to test or implement new equipment or new models of stretchers that would reduce the number of times we have to lift patients into the ambulance. For your information, as you may not be aware, it is not uncommon for us to treat patients in the area of 250 pounds. Add a stretcher to that and you are looking at approximately 300 pounds of weight. I think anybody would admit that is an extraordinary amount of work.

For the most part our ambulances are simply converted vans that were never designed as emergency medical vehicles in the first place. Our equipment cannot be stored properly to prevent injury. The ambulances are not set up so that officers can care for patients safely or effectively. Some vehicles are not roadworthy.

We are constantly exposed to infectious diseases while attending to patients, yet we do not even have an infection control policy, not only in our unit but in the province as a whole. Many of us have not been trained in the proper handling and control of infectious materials.

These are long-standing issues for the members of my unit and they have never been addressed by our employer. These have been raised again and again at both a local and a

provincial health and safety committee basis. All we get in response is an endless string of excuses for not doing anything. When we have raised the issue of unsafe vehicles and threatened not to take them on the road our employer reminds us that we cannot refuse because we will place the public in danger, and we are many times told that if we find the job too risky we should find another career.

I have at least one illustration on a local basis of the impact of this lack of right under the legislation to refuse unsafe work, and that is that on occasion we as ambulance drivers have both locally and provincially faced the situation of doing ambulance calls without a working siren or operating emergency light systems. I am sure you can understand that emergency driving in any situation is risky. Without these emergency systems, it is dangerous.

As you will hear later, Bill 208 will not do anything to make things safer or healthier for us. It will do nothing to protect you, the patients who ride with us and whose lives we are dedicated to saving.

I like to turn to Russel Selkirk for his presentation.

Mr Selkirk: Good afternoon. I am a corrections officer. Correctional services workers do not fare much better than what Mr Soto indicated for ambulance workers.

At the Hamilton-Wentworth Detention Centre, where I am the president of the local, we oversee approximately 460 to 470 inmates. Cells are small and three inmates are forced to share a cell designed for one. The construction of our institution originally had the cells designated for one occupant. They now have three inmates. This makes for a very explosive and violent situation.

I am sure most of us here in this room today would feel pretty upset if we were forced to sleep on a mattress on a floor with our head right above the toilet bowl that our cellmates were using. That is very real and that is the rule rather than the exception.

We recognize, though, that the job of supervising and rehabilitating people convicted or about to be convicted of a crime is hazardous. But it is absolutely outrageous and irresponsible to increase that risk in our job. Surely in a civilized society today it is reasonable to expect measures to be taken to minimize these risks.

Our members are the objects of inmates' frustration and anger. We are frequently injured as a result of direct assault. We are also frequently injured in the process of breaking up

fight among other inmates. Those are the physical assaults that we can talk about. There is no limit to the mental anxiety and assaults that we incur.

There are supposed to be appropriate security measures in place to deal with these situations under normal conditions with adequate facilities and training. This, however, is not the case. We at the Hamilton-Wentworth Detention Centre are understaffed, with 150 trained officers and 25 untrained, unclassified staff—casual employees.

In our facility the number of assaults on staff has increased dramatically. There has been an increase in the number of escapes and a 300 per cent increase in instances in which we are required to use force and restraint. Therefore the possibility of assault and injury increases all the time.

Our facilities for housing and providing activities for inmates are inadequate. As I indicated to you before, the design capacity of our building allowed for one inmate to be in a cell by himself. It not only has an effect in that area, but our kitchen facilities and laundry facilities are all taxed because they too were designed for a capacity of housing one inmate per cell. So those areas are inadequate to the breaking point.

This results in a volatile inmate population and difficulties in providing security for both the officers and the inmates they care for. The judges have leaned now towards more community-minded sentences, so if there is any chance at all of somebody being released to the community he will be. The inmate population we see now in our institutions is far more violent. It is a far more volatile situation that we have on our hands than we did five or 10 years ago.

Our officers are frequently threatened and assaulted and as a result are absolutely stressed out. I will make reference to a situation last October in which our institution initiated a job action based on two of our officers having nervous breakdowns directly in relationship to the units where they were working.

1440

People are talking about irresponsible behaviour on the part of the employees if they were given the right to refuse unsafe work. As correctional officers we do not even have that right to refuse unsafe work, yet it took the culminating factor of a number of our staff going off on stress-related illnesses, approximately a 10-year period of the atrocities continuing to happen in our workplace going unresolved by our managers, for us to finally say that we have had

enough. To me that was not irresponsibility; it was long overdue.

We serve the public and we recognize that we have a job to do. If anything at all, I am sure we are more responsible than to look at a situation and just blow the whistle and say: "We're putting our hands up. We don't want to work in this environment any more." We have raised these problems with our local and ministry employer at every available forum, including our joint health and safety committees. Our employer has been totally unwilling to address these problems. Inspectors have been unable to assist us in having those items addressed because of limits to their powers. Finally, we have no way of forcing the employer to address these matters.

The public sector workers must be assured that all rights under the act are protected. We need the right to refuse unsafe work. Bill 208 does not help us. It needs serious change.

Mr Kinnear: I am Rob Kinnear, president of OPSEU Local 220 in Simcoe, a member of our joint health and safety committee and also a correctional officer.

We have very similar conditions at Sprucedale Youth Centre with respect to overcrowding and security problems. We also have difficulties with the physical condition of our workplace. Last year we found out that we have a major problem with asbestos exposure at our facility for young offenders. Up until this point our employer kept us in the dark about asbestos being in our building. They lied to us about the extent of asbestos and refused to provide us with information.

In March 1988 our chief steward brought up the issue of asbestos in our building to the joint health and safety committee. He requested that all areas containing asbestos be identified and that the proper controls be put into place. Our employer denied that there was any significant asbestos and ignored our request for identification. It was not until a huge portion of asbestos insulation on a boiler was disturbed by a contractor that we became aware of the extent of contamination and how much information had been hidden from us.

When this incident occurred in December 1988 a huge cloud of asbestos dust was created that exposed our facility maintenance staff, the contractor's employees and everyone in the building. We raised this at the next joint health and safety committee meeting and asked for verification of the asbestos through testing and reports, which our employer refused.

Our local union was forced to spirit away 13 samples of insulating material from throughout the institution to verify its asbestos content without our employer's co-operation. All 13 samples taken from plumbing insulation, the ventilation system and kitchen ceiling tiles contained asbestos.

When the Ministry of Labour investigated it realized that orders were issued in 1986 for the employer to institute an asbestos control and surveillance program. They never complied with these orders, which required proper identification, informing and training workers and instituting controls. In fact, the employer lied to the inspector about having complied with the order.

They did not inform us about the asbestos, and we found that they had not informed the contractor about the existence of asbestos in the areas where the contractor's employees were to work. Consequently, no precautions were taken to prevent exposure and many more people have now been exposed to this cancer-causing asbestos.

The employer clearly violated the act and provided false information to the joint committee and inspectors. These actions showed a blatant disregard for the health of workers and young people in our care and outright contempt for the laws of this province. For its part, the Ministry of Labour has not laid one charge against the employer in this case.

Mr Soto: In summation, the present health and safety legal framework and the provisions of Bill 208 provide few mechanisms to address these problems and no incentives for employers to take our concerns seriously.

Under the current act, correctional officers are totally denied the right to refuse unsafe work. Health care workers, such as ambulance officers, are prohibited from using it where it might place the health and safety of others in "imminent jeopardy."

We are thus denied the same right of self-protection that most other workers have on the assumption that we are an essential service, and if given this right, we might abuse it and endanger the public. These fears and assumptions are absurd, self-serving and not borne out by the facts.

But one thing is clear. We are in effect forced to suffer serious threats to our health and safety, even when these have nothing to do with the nature of our work and when the employer refuses to take measures to minimize known risks. This is asking us to accept suicide as part of the job description.

We recognize that some aspects of our jobs are inherently dangerous. We are sure you will agree that proper management and control of the level of risk is critical to our protection and that we have a natural right to expect this.

But this is clearly not happening, because without this right we have no means of forcing our employer to investigate and resolve our concerns and engage in proper risk management. Indeed, this provision reinforces their view that dangers in our work must be accepted without controls. We say our employers are the ones who have abused this denial of rights to their workers.

Bill 208 does not alter this condition for the groups of workers we represent. Nor does it deal with the problems in the right to refuse for all workers. In fact, the bill takes a step backward by paying workers who refuse only during the first stage of a work refusal, that is, only during the employer's investigation. But if a worker rejects the employer's findings, continues to refuse and calls for an inspector, then the pay stops. Bill 208 will still allow employers the right to assign another worker to perform work that a worker has refused. The employer can do that before the hazard has been removed.

The same can be said for the right to shut down unsafe work in Bill 208. First of all, correctional personnel and health care workers face the same restrictions and exemptions that apply to the right to refuse unsafe work. Second, the many checks and balances imposed on the certified members using it make it absolutely inaccessible.

At the same time that we have been denied the right to refuse or shut down unsafe work, mechanisms that could play a role in resolving issues on joint committees, we see no provisions in Bill 208 that break the employer's unfettered right to veto workers' recommendations and even their joint committee's recommendations. Giving the employer 30 days to give us their veto in writing is not a big help in resolving issues.

We are very concerned about the provisions in Bill 208 which allow government to exempt whole groups of workers from certain rights. It is alarming that a government has the power to exempt whole groups of workers from having joint committees, certification and the right to shut down unsafe work. We are also alarmed by the government's power to regulate how unions select their representatives. This interferes in the union's own democratic process.

Bill 208 does not give inspectors a greater role in the workplace than before. Their role as enforcers has not been enhanced. In fact, we suspect that the government bill intends to reduce

that role even further. It is our view, and one borne out by the factual evidence, that a high-profile inspectorate with clear powers to sanction can encourage and enhance the functioning of the joint committee system. When it is clear to everyone that inspectors have a dedicated intention to enforce the act, there is great incentive to comply and resolve issues. They also need the power to sanction immediately when a violation occurs.

We hope you will put yourselves in our shoes and change Bill 208 so that lives will not be lost. And remember, unsafe conditions do not affect workers only. They can hurt or injure or make sick visitors, patients and even bystanders. Often legislatures and the public forget that when public sector workers fight for health and safety it is as much for the interests of the patients or clients we serve as for ourselves. We know what the dangers are. Please give us the power to protect us all from them.

1450

The Chair: Are the three of you employed directly by ministries, the Ministry of Health and the Ministry of Correctional Services, or is there an agency in between you and the ministries?

Mr Soto: The former. We are all employed directly by the ministries.

Miss Martel: We heard this morning from Moe Kuzak who said that in the particular case he presented orders were not enforced repeatedly. Just after that, we heard from Ted Mansell from CUPE, who said that the internal responsibility system was not working.

Clearly, we have heard today from you that the internal responsibility system with your employer is not working because the employer refuses to recognize the recommendations out of the joint health and safety committee and do anything about them.

If you do not even have that protection, I want to ask you how effective the Ministry of Labour inspectors are then when they come in to your workplaces. Are they effective at all in protecting your workers' health and safety, since your employer does not seem to want to do that?

Mr Kinneer: In my own situation, I felt that the Ministry of Labour inspectors were gagged. I made the initial phone call to the Ministry of Labour in Hamilton. I just said an accident had occurred at our facility, as per the regulations. The procedures are outlined there.

After numerous phone calls and once we went to the press and the press made it known that we had said there was exposure, we finally got a

phone call from the regional managers saying, "What happened to the phone call?" I said: "Well, I have the dates here, who I spoke to, and I believe the individual, the inspector who comes to our institution on an annual basis was gagged to say, 'Stay away from that because maybe it'll blow over. It's over the Christmas period.' But we know that there was exposure."

The management at our institution did not take it seriously. They played off that: "Yes, we're employed by the Ministry of Correctional Services but we don't own the building. Government Services owns the building and they are responsible for that." So it was the old skate-around, where you had the skate-around the same thing with the Ministry of Labour saying, "Yes, we issued the order back in 1986, but we were told back then that the order had been complied with," the order being complied with according to management side but not the union side.

There was not the consultation between the joint parties to say that the asbestos problem had been identified and these were the areas. The consultant's report still has not been complied with. The Ministry of Government Services had a consultant come into the institution and identify all the areas in the institution. Their recommendation is, "Any areas that have asbestos, whether in fair or poor condition, should be replaced, to the tune of \$100,000."

My employer, the Ministry of Correctional Services, says: "We don't have that in our budget, so we're going to have to fight with Government Services. We'll patch it up for now. We'll give you the equipment that you're supposed to have in the first place." It is just a superficial Band-Aid over a large wound. It is ridiculous, and I honestly believe that the inspectors are gagged by their managers.

Miss Martel: That being the government of Ontario in essence.

Mr Kinneer: Yes.

Miss Martel: You do not have a protectionary right to refuse under the present legislation?

Mr Kinneer: No.

Miss Martel: You did not get it with Bill 208, which was introduced in January. You did not get it again when Mr Phillips announced new amendments in October. What do you think it is going to take to convince the government that you have as much right as anyone else to refuse unsafe work and that you are not going to be irresponsible and jeopardize the safety of other people because you exercise that right?

Mr Kinnear: I know for a fact at my own institution the employees who were exposed have gone on the workers' compensation identification program to say that they have been exposed. As we know, asbestos causes cancer. It is a fibrous material floating in the air and the majority of the time it is visible unless you have cut into it. It could act on one of my employees tomorrow, five years down the road, 10 years down the road. I think that what it is going to take is another death.

Mrs Marland: I am sure you know the Legislature, the main Legislative Building at Queen's Park, where the members of provincial Parliament have their offices, has had all the asbestos removed. I do not have to tell you that.

Mr Kinnear: I am well aware of that.

Mrs Marland: I am the member for Mississauga South and so I have some knowledge about the concerns of the ambulance people, having gone through the Halton-Peel ambulance strike. I wish I had known some of the things that are in your brief today. I would certainly have used them in the Legislature when I was dealing with that strike.

Is it not ironical that you find, as an ambulance officer, that your service is deemed to be—I am trying to find your wording—

Mr Soto: Essential?

Mrs Marland: Yes, but it is not officially deemed essential and that is what I tried to get. I know that you do not want that from the union point of view in terms of your rights, but it is interesting that that is how it functions. On the one hand, if it suits everybody and, on the other hand, it is not a fact.

I think your brief is very revealing. I am very interested in it, particularly when you talk about the roadworthiness or lack of roadworthiness of the vehicles and the fact that the public is then at risk as well as you as officers working with that equipment. When you talk about the storage of your equipment, are you talking about the storage of equipment within the ambulance itself?

Mr Soto: Yes. In the past, we have had problems with getting the ministry to secure equipment, to give us the straps we need to secure equipment so it does not shake around. If you are in a rollover or if you are in a code-4 priority call situation, you are worried about things running around on you. We still have problems getting things strapped down.

That is one of the problems with respect to the equipment being secured. That is what we mean

by "secured." For instance, if you have a crash kit or what we call our Flynn kit, which is a piece of equipment that carries the oxygen cylinder, if we do not strap that down and you go around a corner, it goes skating across the floor of the ambulance.

Mrs Marland: It is incredible, though, to hear today about roadworthiness and the example you have just given, which is not directly roadworthiness but is the safe operation of that vehicle. It is amazing if all these things have been brought to the attention of your employer, that none of them is being addressed when, in turn, it is the safety of the public as well. I am not saying that the public has priority over the employees. What I am saying is that you have pretty powerful ammunition for your arguments. It is amazing that it has been ignored.

Mr Soto: I would like to touch on that. I think it touches the point that you brought up, which is, what does it take to get a change in the legislation to get rid of the exemptions and include public sector workers under the current legislation? I think it is this issue about educating the public about the fact that, by and large, when public sector workers make decisions on health and safety, they make them as much if not more with a mind to the people they are serving as they do for themselves.

This is especially true in my experience in the ambulance service. Our health and safety committees have tried to educate our members about what we call code-9ing a vehicle. It does not work, the brakes are bad or it has a shimmy in it. We tell them to code-9 it. It is all jargon for: "Shut the vehicle down. Don't use it until you get a safe vehicle."

The reality is that our members seem to take that on as an issue when it seems to impact on the people they are working with, when a vehicle gets so bad in terms of its shake and shimmy that it is an uncomfortable ride for the patient. There is a connection between the patient and the service they are providing. It is something that I keep trying to raise with people because it is an underlying issue.

Several years ago, in London, our union was responsible for the unionized workers there pulling a work refusal on a two-stretcher rig. Yes, it was partially because it was a health and safety complaint, but it was mainly because it was entirely uncomfortable for the patients and a real compromise to the patients' privacy to have two of them riding together. What did we do? The only legislation we had to go through was the health and safety legislation.

So here we are fighting for the public interest against an employer who is only interested in maximizing its efficiency in the utilization of vehicles. What do they see at the end of the line? It is the dollars. It is a combination of the public interest and the interests of the employees that I think has to be kept in mind constantly.

1500

Mrs Marland: You said this afternoon that on some of these things you have gone to the press. Maybe it was Rob who said it. With Bill 208, we are obviously dealing with everybody. We are dealing with the world. We are dealing with all employers: the government, public and private sectors. But it is amazing to me that you have all this kind of argument here this afternoon where you would think you would have the easiest lobby in terms of the public.

When you describe those cells, our legislative standing committee on government agencies which I was on last year visited Penetanguishene and I could not believe the conditions there. Obviously, being a Conservative—ho, ho, ho, with my friends behind me here—our party is supposed to be not traditionally labour and union oriented. I can tell you I admit to getting more and more into that venue individually because when I came out of Penetanguishene, I thought, “I do not know what those people earn but, whatever they earn, it is not enough.”

I am talking about the working conditions for the people who work in Penetanguishene. I suppose if I was really a little more humanitarian than I am I should be more concerned about the patients, or at least the residents or inmates—they are patients at Penetanguishene really, are they not?

The Chair: I am afraid we will have to move on, for a couple of reasons: you are giving Mr Mackenzie a nervous breakdown and we are also running out of time.

Mrs Marland: I am being very honest and, in being honest, I just wanted to tell Russell that when he describes those conditions that affect everybody, they are very real. I have seen it.

The Chair: Do you have a very short question?

Mr Mackenzie: Very short. I guess it is to all of you, but Russ Selkirk may want to respond. I know that the frustration boiled over with the security guards at the jail in the past year and job action was taken because, as you have well outlined in your presentation, you just were getting nowhere in resolving the problems of long standing.

So many of the public sector workers have been exempted from the rights under Bill 208 that is obviously one of the battles we have right now. If we are not able to resolve that issue and there is not the right for public sector workers, what in effect are we looking at? Are your people going to take the current situation or are we going to see more of the kind of job actions that we had with the security guards over the last short period of time?

Mr Selkirk: We are hoping that through the October crisis, as we have referred to it, there is an awareness now out in the public. I think that is what we have to build on first of all. We as public servants have the public's interest at heart but, notwithstanding that, we still have to look after our own interests. We are the individuals who are working inside those institutions on a daily basis.

I referred earlier to the sentencing patterns of the judges now to go more community minded, sentencing patterns for those individuals that are acceptable. We are only going to see a proliferation of the type of serious escapes, the shotgun types of threatening, the parolees and the problems we are having with them. They are only going to increase as we go along.

So I think, certainly from our standpoint, the members, the employees I represent are looking for ways and means, some new initiatives, perhaps some new types of job actions different from the ones we have held in the past in trying to bring our employer to the understanding that we really and truly care about our jobs and we really and truly are committed to providing an essential service to the public, but that we still require the right to refuse unsafe work and to look after our own situation.

The Chair: Thank you very much for your presentation. It was a very interesting one and a very compelling one.

The next presentation is from Safetyscope Inc. Tim Morrison, welcome to the committee. A copy of your brief is being distributed to members so you can proceed whenever you are ready.

SAFETYSCOPE INC

Mr Morrison: My name is Tim Morrison. I represent a very small but élite group within the insurance industry. We actually control who gets insurance and who does not. I am a member of the loss control department of a very large insurance company in Canada and our decisions basically affect what the cost of your commercial property insurance or liability insurance is going

to be. That is my background; this is my presentation.

The Minister of Labour tallied some of the costs associated with workplace accidents when he moved that Bill 208 receive second reading. However, he did not mention an estimated \$1-billion expense Ontario businesses paid in 1988 that Bill 208 could also reduce. This is the cost of commercial insurance.

This presentation is to detail how Bill 208 can assist companies in reducing property and casualty insurance premiums, endorse the requirement of committee members' training and certification and emphasize the requirements of a formal safety program.

Historically, insurance premiums like WCB assessments and safety-related expenses have been thought of as a cost of doing business, but this expense, the insurance premium, can significantly alter the competitive position of any company. For example, in 1985, 30 per cent of the price of every ladder sold in Canada represented insurance costs.

For those who have not considered the relative relationship between personal injury and property damage, I point out the accident ratio developed by Insurance Co of North America in 1969. That ratio is on the back of the presentation. It is similar to the other ratios used in safety, except this one includes property damage.

The study concluded that property damage accidents had a direct correlation to personal injury accidents. In addition, it found that most near misses involve a minor cost of property damage incurred, usually less than \$25. This seemingly minor cost becomes a very significant estimated probable loss of \$15,000 per business when calculated using the ratio.

The following basic insurance premium calculation can illustrate how workplace safety can lower insurance costs. For simplicity, many of the variables an actuary may consider have been omitted, as they impact the end results only slightly or are used for short-term objectives.

For the sake of example, we used \$200,000 as the value to be insured. We said the time until the loss would occur would be 20 years, the expected probable loss is 100 per cent and we are guessing at the premium. As you can see, using the formula, the premium works out to about \$10,000 a year that must be collected. That is not including the insurance company profit that has to be made on that same amount.

To change the outcome of any calculation, one or more variables must be altered. Safety programs alter the variables of time and/or

expectable probable loss, the frequency and severity.

Insurance companies are now, more than ever, recognizing the need to choose businesses with good safety records. Their profit margins, the demand for adequate return by shareholders and increased competition has insurance companies focusing on the need to make every revenue dollar count. Large losses are no longer acceptable, as it increases their costs, so they have specialized. They now seek out industries with good accident prevention records. This has made insurance for higher-risk companies more difficult to get and more costly when they find it.

In this situation, companies may choose to either operate without insurance, a term we call going bare, or they may have to seek government assistance. This was done in 1988 in Alberta when welders could not get liability insurance. The government had to form a fund to finance the liability insurance for the welders. Bill 208 prevents these two options that can actually penalize companies with good safety records.

Point 2 of my presentation is the need for adequate and relevant training. Researchers agree that safety is an attitude and is developed by awareness. A study by Doctors Manga, Broyles and Reschenthaler for the Economic Council of Canada recommended widely disseminated information as part of the solution to develop better safety programs. Dr Joan Eakin's study of small businessmen and their attitudes towards safety found that, once aware, the owners recognized the need for improvements in safety performance.

Random information is not effective. Studies have shown that the education process must begin with hazard recognition and detailing possible outcomes. The next step is motivation. Profit, not legislation, creates the desire for safety in a company. Finally, the rewards: this is the last step to ensure that those who do implement safety reap the proposed outcomes.

Insurance puts steps 2 and 3 into place; Bill 208 will produce step 1. This is hazard assessment. This assessment is very important and should be the focus of representatives' training. Much of the training available now centres around themes such as "managing" or "legislation compliance." Yes, these themes should be included in the curriculum, but hazard assessment is the basis of all other safety activities. Safeguards, reporting systems and audits are only as good as the initial assessment.

I stress hazard assessment for two reasons. The first is cost-effectiveness. The laws of this country should be designed to provide our nation's industry with a competitive edge, not a hindrance. Hazard assessment can show where a company is losing or can lose money. Once this information is available, these losses and costs can be reduced.

Second, if the work refusal component of Bill 208 is to have any credibility and workability, representatives must be able to make sound judgements as to what is a dangerous situation. Proper initial assessment could significantly reduce the dangerous work occurrences, and if this situation does occur, good training and established procedures will ensure rapid resolution and return to production.

To speed certification and avoid reinventing the wheel, the following curriculum is suggested.

The first part is hazard assessment. We recommend about 40 hours in training, covering everything from first aid and fire extinguisher training to chemical recognition and accident investigation. All these courses are currently offered by safety associations. Du Pont has a hazard recognition course and there are other companies that have similar training programs.

Legislation, 10 hours: Legislation really does not prevent accidents. What we want is simply that the employees and the employers know what are their responsibilities and rights under the law. That is including the Occupational Health and Safety Act, the WCB, the fire code and other applicable regulations.

My office contains 117 different government regulations monitoring safety in the workplace, everything from gasoline handling all the way up to dangerous goods and the Occupational Health and Safety Act. There are a lot of regulations, most of them not known by the general public.

Then there is safety program management, such as running effective meetings, group dynamics, information sources and uses and resources available.

We estimate the total time for this training package to be about two weeks.

The benefits of this format and use of current training are:

1. Due regard to previous attendance on these or other equivalent courses would be easier to calculate.
2. It reduces time in assembling the program.
3. It saves money by eliminating new course development.

4. It allows for greater flexibility, as it can be offered in module format.

5. It permits greater speed in certification because training may have already been received.

6) It builds on requirements of current legislation, limiting the need for additional training.

This curriculum provides the representative knowledge to build and operate an effective safety program.

This is my third point. To reduce losses and their costs, good procedures must be in place. The basic premise is to have a system which will communicate a method of operation and a final result.

A perfect example of good procedures is McDonald's Restaurants. The success of this company is based on a 658-page operation manual, detailing everything from what tomatoes to use to cleaning a restroom. No matter where you go, everybody knows what he will find at McDonald's, whether it is edible or not.

These procedures, if documented, can reduce insurance premiums as well as provide a basis for accreditation.

One of the variables omitted in the calculation I described earlier was merit credits. This credit is given as a reward for having certain loss reduction measures already in place. Sprinkler systems, safety committees and emergency plans are three examples of the many that are available.

To give you an idea just how much a merit credit can reduce your premium, by installing a sprinkler system you can get a 75 per cent reduction on the cost of your commercial insurance. Safety committees probably might add another 10 per cent reduction to that. Having safety rules would add to that. So you could really reduce the amount of insurance premium that a company will pay.

With merit credits, the insurance company is looking at the company's overall attitude towards accident prevention. The basic guide when underwriting a risk or providing insurance is being comfortable with that potential policyholder. If a company shows a will to prevent accidents, the insurance company is more likely to feel comfortable, and in this business of high risk these days, feeling comfortable goes a long way.

The size of the business determines the complexity of the safety system that is required. For most companies that have under five employees, we would probably ask for a listing of safety rules. For a company like Esso, we

would want a complete and entire safety department.

Accreditation must also be based on what is documented and observed. The audit process must take into consideration objective results, such as frequency and severity rates, not just how elaborate the system is. The process must also analyse how integrated safety is in the daily operation. The McDonald's manual entwines safety throughout the entire operation. Safety procedures are not separate rules that are seen as counterproductive; rather, they are a principle and goal of every set of operating instructions. Safety can be used as a marketing tool to gain a competitive advantage, but most important, it should be the way of doing business.

In summary, I would like to point out that this presentation represents the collective thoughts of many people from a variety of backgrounds. One issue we hope to make clear is that safety crosses many fields of expertise. The company name, Safetyscope, was coined to represent this mosaic. Most of the people involved in putting together this presentation work for insurance companies. Safetyscope was just a form of going under one banner.

Other firms like the one we formed are currently providing accident prevention services in the marketplace already. The minister has proposed that the Ministry of Labour inspectors be made available to industry to assist in the transition. We feel that private firms should also be listed as resources, just as the inspectors. If the intent of the bill is to place the responsibility to develop a safe workplace in the hands of the marketplace, why not allow the assistance to come from there as well? Most insurance companies probably have the best resources available to handle such a transition, and best of all, it is free of charge. All they have to do is ask for it.

Safety is not a separate entity within an organization and Bill 208 enforces this notion. This legislation is, as the minister pointed out, very progressive, and the changes must not hinder the awareness-raising, cost reduction ability, nor create a bureaucracy to ensure compliance. Insurance companies, when all is said and done, have only one measure of success, the amount of the loss. Safety systems tailored to each individual operation will reduce the losses. A general bureaucratic direction will not.

1520

The Chair: Thank you, Mr Morrison, for an interesting brief. Do you work for one insurance company?

Mr Morrison: I work for one insurance company. We have approximately \$200 million invested or taken in premiums every year in Canada.

Mr Cureatz: I notice, Mr Chairperson, that whenever one is trying to get on your agenda of course you always take the liberty of asking the first question, if you are so inclined. Is that normal procedure?

The Chair: Yes.

Mr Cureatz: It is.

Mrs Marland: It is on this committee.

Mr Carrothers: This committee operates under the Laughren rules.

Mrs Marland: It is the only committee that it happens on, but we indulge the chairman.

Mr Cureatz: To the witness, I enjoyed the presentation very much and I thought it was very innovative to bring forward the economic value of some of the aspects of the proposed legislation. It is certainly a twist that I had not brought my attention to and we appreciate the remarks.

Mr Morrison: Most people do not consider insurance as viable as a decision-making process for introducing safety. Most of the people we talk to think it is the employees' responsibility to bring up concerns. We disagree. Eventually, if you kill enough people, your insurance premiums are going to make it very difficult to obtain. We would just as soon like to make our money on controlling our expenses and that means controlling the amount we pay out in losses.

Mr Carrothers: I think he is finished, Mr Chairman.

The Chair: I am waiting for Mr Cureatz to—

Mr Cureatz: No, that is it. Thank you, Mr Chairperson.

The Chair: I do not see any other hands. Could I ask a question?

Mr Dietsch: One short one.

Mrs Marland: Let us have a vote.

The Chair: Most of the accidents to which you refer are workplace accidents, at least that we are dealing with here, and that is covered by the workers' compensation system.

Mr Morrison: For the employees.

The Chair: How would you fit into that?

Mr Morrison: You cover only the cost of what an employee takes from the system. We cover the cost of the properties that are damaged. If you look at the ratio at the back, you will find that for every serious disabling injury there are 30 property damage accidents. By eliminating the

serious disabling accident, you eliminate 30 property damage accidents. It makes sense to us.

The Chair: I understand. No other questions? Thank you very much for your presentation. It was very interesting.

The next presentation is from the United Electrical, Radio and Machine Workers of Canada. Mr McCallion is here, I think. Gentlemen, we welcome you to the committee. If you would introduce yourselves we can wade right in.

UNITED ELECTRICAL, RADIO AND
MACHINE WORKERS OF CANADA,
HAMILTON-NIAGARA REGION

Mr Farkas: My name is Steve Farkas. I am a national representative with the United Electrical, Radio and Machine Workers of Canada. I have with me Robert McCallion. He is the president of Local 523 in Welland which is right here representing workers at Stelco. Also here is John Bisson, a health and safety representative, also representing workers at Stelco, and Gord Chatwin, also a health and safety representative representing workers at Stelco here in Welland.

I would also point out that the three gentlemen who are with me are all workplace hazardous materials information system instructors, and instructors in the Ontario Federation of Labour 30-hour health and safety course. Among the three of them, they have trained literally thousands of workers so they will be quite capable of, and quite willing to answer any questions the committee may have.

I will not be going through the brief in its entirety. I will skip over some sections in the interests of time to allow some time for questions.

The organization appearing before you today, the United Electrical, Radio and Machine Workers of Canada—UE—represents approximately 6,000 workers in the Golden Horseshoe. Our members work in a wide range of industries including outside municipal workers, electrical manufacturing, forging shops, foundries, heavy steel manufacturing, appliance manufacturing, metal stampings and electronics.

Over the years many of our shop-floor members and union activists have spent long hours developing skills and knowledge in the health and safety field. They continue to devote their time and effort to learning, teaching and fighting on a day-to-day basis for improved working conditions for their brothers and sisters on the shop floor. These UE activists have trained literally thousands of workers in union-

developed health and safety programs, all on a volunteer basis. This training is available to all comers, as health and safety education is needed by every worker whether organized or not.

The response to this education program has been overwhelming for a very basic but vitally important reason; that is, the workers' wish to be protected from injury, sickness or death at the hands of our employers.

We are appearing before you today to try to convince this committee and ultimately the government of Premier Peterson that strong, meaningful health and safety legislation remains one of the best ways to stop the carnage in the workplaces across this province.

Our organization appeared before this committee in the not-too-distant past to argue against Bill 162, which in our view did nothing more than provide massive relief to employers at the expense of injured workers and their families. Our main component of that presentation was to urge the provincial Liberals not to gut the Workers' Compensation Board system, but instead to introduce health and safety legislation designed to force our bosses to finally put the lives of their workers above their companies' bottom line. The Liberals unfortunately turned a deaf ear to the concerns of labour and the cries of injured workers, and the fight for fair compensation continues.

We are back now to report on the government's Bill 208. This bill, when first introduced in its original form, was closely examined and then carefully debated by UE members and the labour movement in Ontario as a whole and was sadly found to be wanting. While it did provide a limited measure of some long-sought-after improvements—for example, the right to shut down unsafe work—it fell short of providing a full range of improvements needed to improve our existing legislation.

We have concluded that not only will this new act fail to provide a reduction in the alarmingly large and growing number of work-related injuries and fatalities, due to the recent proposal of the Minister of Labour to weaken the bill, but also it would surely make it more difficult for our members to protect themselves.

The UE, along with other labour organizations, through the OFL mounted a campaign to educate government members in order to try to convince them that some 19 areas of the bill require overhauling and improvements. We would like today to touch on a number of these areas that UE sees as vital for legislation that can

be used by our members and other Ontario workers for their own protection.

1530

The case of the second-class citizen: We can all imagine the feeling of being on the outside looking in, whether as a starving person gazing through the glass at a sumptuous feast, a homeless person passing by a luxury condo unit or a patient desperately waiting for a hospital bed. We all know this is nothing less than a nightmare. The unfortunate fact is that for public sector and farm workers this is not merely imagination but is indeed a reality.

The principle of the second-class citizen is one that is, for the most part, rejected by all Canadian workers. We all, for example, support the fight against the system of apartheid in South Africa and the injustice being heaped upon our own native peoples. The labour movement has been built on a foundation that fundamentally rejects any law that would sacrifice men and women on the working place altar just because their employers have been declared somehow special or exempt.

While many of us in this province can avail ourselves of at least some measure of protection against being struck down while earning a living, a large number of Ontario's workforce remain out in the deadly cold. Why can they not be allowed to say no to dangerous work, no to perilous working conditions that may cripple, maim or even kill them? Why are they forced to face these dangers to collect a paycheque from their employers? For these workers it truly is a jungle out there.

The right to refuse unsafe work has been used by those who possess it to save many lives and prevent untold suffering over the years, yet the Liberal government still refuses to allow thousands of workers at risk the same opportunity. This wrongheaded thinking, in our opinion, borders on the insane. The recent tragic examples of death and injury in both excluded sectors must surely convince even the blindest politician that these basic rights must be extended to all workers across this province. While UE does not presently represent workers in this excluded sector, we cannot help but do everything in our power to correct this obvious injustice.

This disturbing situation is magnified by the limitation on the right to shut down in small workplaces and some construction sites. Given the statistics on workplace injury and death in the province, it is negligent in the extreme to leave a large number of workers without this protection. Small, often unorganized workplaces are likely

to be managed through intimidation. Workers must be clearly protected by law when it comes to health and safety, not left with the prospect of relying on their benevolent employers.

We urge the government of the day to amend this bill to provide this protection for all of our brothers and sisters in Ontario. They need the right to refuse and to shut down unsafe work.

The internal responsibility system: If the certified members program is really expected to work they must be given the tools to do the job. They must have the power to issue orders that carry the weight of required compliance, and if the employer disagrees then he can make an appeal to the ministry. The existing internal responsibility system is not working because members do not share the power this responsibility demands. We have seen all too often minutes of health and safety meetings containing unresolved concerns that are reported month after month.

Not only does this increase the potential for accident and injury; it seriously undermines the credibility of the safety committee in the eyes of the workers who read the reports. Not only should employers respond to committee recommendations promptly; they should also be required to heed the voice of labour as spoken by the workers' most powerful safety rep on the shop floor, the certified member. Minister, if workers are given legislation without teeth they will not be able to take a bite out of the appalling levels of injuries in the workplace.

The right to stop work: The minister's latest proposals suggesting that both worker-certified and management-certified members should agree before unsafe work is shut down is naïve to say the least. What the minister needs is to be awakened from his good guy-bad guy dreams with an injection of reality.

Since the act came into effect in October 1979, more than 2,500 workers have died on the job in Ontario. One worker dies on average every working day in Ontario. To 30 November 1989, 339 worker death claims have been submitted for the current year to the Workers' Compensation Board; 272 of those claims have been recognized. More than four million workers have been injured on the job since the present act came into effect in 1979.

Wake up, Minister. If we could reach agreements with employers on the health and safety of our workers we would not be here today, nor would the statistics listed above be there to haunt the halls of Queen's Park and the boardrooms across this province. The fact is that if it is not

profitable, employers are not interested. Our certified members need the right to shut down unsafe work.

Just one final point on the issue: Are you seriously suggesting that workers affected by stop-work orders should stop being paid? Would your government give up a day's pay for every opposition member's question? Let's get serious about health and safety and not put roadblocks in the way of obviously needed worker protection.

Mr Fleet: Don't give them any bad ideas.

Mr Farkas: It might be a good idea.

Workers reassigned to refused jobs: The present act allows our bosses to reassign workers to refused jobs. This process clearly undermines the work refusal procedure. It is well known that in many cases a reassigned worker is often a new Canadian or a probationary employee. Anyone who does not believe that this loophole is actively exploited by employers is either misinformed or naive.

In order to ensure that workers' concerns over unsafe work are properly addressed, this section of the act must be improved. When work is refused it must be shut down until a resolve is reached through the joint health and safety committee reps or through the ministry.

The right to refuse ergonomic or design problems: The minister's proposal that would limit workers' rights to refuse work relating to ergonomic or design problems is blind-minded to say the least. Many of the workers represented by UE work on high-output production lines, performing highly repetitive work. Our experience shows that many of our members have developed repetitive motion disorders, such as tendonitis and carpal tunnel syndrome.

Time and time again our in-plant health and safety representatives have fought to resolve these problems with our employers through the internal responsibility system and in most cases they themselves come away with a repetitive head-banging disease. It seems the only time these issues are resolved is when a worker says enough is enough and refuses to work.

Mr Phillips's proposal to remove the right to refuse in these situations is quite frankly a proposal that tells a worker: "You go into that plant and do your job even if we all know you're getting hurt. We, the government of Ontario, frankly don't care." The right to refuse all unsafe work is a must and anything less is an insult to all workers in Ontario.

In conclusion, an area of great concern arose when the new Minister of Labour announced proposed changes to Bill 208 that he expected

this committee to consider and potentially include in its recommendations to the Legislature. It is obvious to anyone in the labour movement that this is nothing less than a retreat in the face of massive, and in our opinion irrational pressure by the province's employers.

The same scenario occurred during the debate on allowing workers the individual right to refuse. At that time employers across this province predicted that the wheels of industry would surely grind to a halt. That obviously did not happen, but here they are again. The same business groups that continually decry the cost of their workers' compensation assessments are out to try to water down one of the only mechanisms that could result in reduced injury and death.

They are unfortunately scrambling to the tune being played by Canada's federal Tories, in which deregulation and cut-throat competition are the major theme. The Ontario Liberals, who wound up throwing in the towel on the continuing free trade debate, seem to be caving in to this mentality at the expense of Ontario workers.

The UE and our labour allies cannot allow this mindset to deteriorate the already hazardous position of our members, either through the actions of their employers or their government, and our only alternative in the face of regressive amendments to Bill 208 is to go back to the bargaining table and demand the protection our members deserve.

We are here today to tell Premier Peterson and the Ontario Liberals to understand that legislation protecting all the province's workers, organized and unorganized alike, is the only way to seriously address the staggering number of injuries, illnesses and deaths occurring in today's workplace. If this committee hears nothing else today, it must hear how desperately needed these changes are. We appeal to you to take a hard look at the amendments we and others in the labour movement propose. The future wellbeing of Ontario workers and their families depends on it.

Mr Cureatz: The degree of frustration is evident in the paper that you have presented. I certainly noticed in yesterday's presentations by a number of groups that the compromise stage is over in terms of the internal workings. I guess, in summation, not putting words in your mouth, it would appear to be at the stage, as I heard yesterday, where you feel uncomfortable that any kind of mutual co-operation has not been forthcoming over the last number of years between the employer and employee in terms of safety provisions, and you are asking, among

other things, at least for implementation of the bill.

1540

Mr Farkas: You are going to have to rephrase that. I am not—

Mr Cureatz: We heard a number of presentations yesterday from various groups who were concerned that they were frustrated time and time again by employers not following through with their obligation of instituting a program or listening to concerns about safety. Your paper has stressed to me that those concerns are once again a format of your being concerned about the legislation, that it has gone past the point of co-operation on the employer's side to continue to be in an aggressive frame of mind to institute safety conditions. You are saying that because of past experience, you want some further actions to take place, one of which is Bill 208.

Mr Farkas: Most definitely.

Mr Mackenzie: I know you have had some of the longer and more bitter battles over cancer among women workers in some of your plants, the blinding of workers in Hamilton and a number of other situations. Given the kind of experience you have had and the feelings you have had, I would still like to ask you the same question I have asked a number of other union groups, that is, "Do you have any concern that members of your union would misuse the right to refuse were they given it, or in fact do you think it would strengthen their position and probably cause less problems than some of the fights that I know have gone on within some of your locals?"

Mr Farkas: No. It would definitely strengthen our position and the position of our members. The people who run around this province suggesting that workers would misuse the right to refuse work are, quite frankly, full of bull. The record is clear. We have had that right since 1978. There has never, at least as far as I can remember in any of the shops I represent or in the shop that I came from, ever been a misuse of that right.

In fact, it even goes the opposite way where it is very, very difficult to even try to instruct or educate workers on their right to refuse. Workers are not going to work to refuse work. They go there to earn money so that they can put bread and food on the table for their families. They do not go into work in the morning and say: "I don't feel like doing that. I am going to use the Occupational Health and Safety Act to try and refuse." That is totally wrong.

Mr Mackenzie: One of the companies that some of your members represent made that point clear yesterday. I was glad to hear the comments from Stelco that there had not been a misuse of the right to refuse.

I notice that a couple of you are instructors in the OFL safety program. The 30-hour or 40-hour level, is it?

Mr Farkas: Yes.

Mr Mackenzie: I want to ask you a question. It is a little separate, I guess, from your own presentation, but we had an argument presented by one of the business groups, as a matter of fact, McDonald's Restaurants, made before our committee just yesterday, that to put in place a program training their workers would require—and I do not have the document with me—two 300-hour periods. One of them was just to elect and decide on who the safety people would be, 300 were for lost time for people who were off on the training, I guess. There were two 48-hour periods. It worked out to well over 1,000 hours. As workers that are involved in actually training workers through the OFL program, how close do you think they are to reality?

Mr McCallion: In my considered opinion, greatly removed from reality. I think when you look some of the training, as far as I know, to get a formal apprenticeship in some trades takes you 8,000 hours. I do not know where in creation they got the idea of 1,000 hours. We as a union in fact now train members of management through various things.

Mr Mackenzie: I was aware that you are training management as well as your own people.

Mr McCallion: Yes. I think the reason we have progressed that far is because the training is relevant, is compact, is realistic and does help people understand. If we are going to hang our hats on this internal responsibility system, I think it is incumbent upon each side to get the perspective. I think the main reason that our training is so successful is it has been generated from the shop floor up. It deals with the actual realities of the situation.

Mr Mackenzie: If I sent you a copy of that brief, and I know it has already gone to some of the people at the OFL, you could give us a fairly good critique of the length of time they decided was necessary to train each one of their workers.

Mr McCallion: Yes, I probably could.

Mr Mackenzie: Thank you.

Mr Carrothers: I wonder if I could get you response or comment on some points some other witnesses have given to us. We have had some

employers come in and speak to us who seem to have at least some very good relationships regarding safety in the workplaces, seem to have accomplished everything we would like to see through this legislation in their workplaces.

They were making the point that they felt the stop-work provisions in this legislation, which gave what they were calling a unilateral right to the worker or the worker inspector, would somehow upset the balance that they had achieved in their workplace—with the understanding, I guess, that both were working together in a good relationship—and destroy what they had. I wonder if you could perhaps provide a perspective or a comment on that.

Mr McCallion: I think that if you go back to the concept of an individual work refusal, what generates, in my experience, an individual work refusal is a repeated refusal to recognize a legitimate concern. Very few workers—when it comes to an actual work refusal by them, it becomes very stressful and a very onerous thing on them because what generates it usually is a great deal of frustration. It gets to the point where the worker just says: “I have had enough of this crap. I cannot take any more and so I am going to stand up for my rights.”

If we get to the point where we have educated, certified worker members, that, in my opinion, would have a moderating influence on that type of situation because you would have someone a little more qualified and a better perspective to look at. When you look at the whole idea of your internal responsibility system, I think it is only just and right that the workers should be adequately represented. It gives it credibility and it might generate a little more flexibility and make a little more workability, but time will tell in that case.

Mr Carrothers: I guess the point that I heard them making was that, in those situations where they have achieved that on a co-operative basis, it was happening. In other words, when the problem was presented it was solved, and it seemed in fact, from what we heard, that was the case. They felt that somehow all that good work and all that relationship would be destroyed. That was the point they were making, and I just wondered if you had any thought on that.

Mr McCallion: My thought would be that the logical extension of making that process more workable would be to give the right to shut down to a certified member. It gives it more credibility, it makes it more workable, it makes it stronger, more just and equitable.

Mr Bisson: If I may make a point more on a personal basis with reference to Mr Kaiser and the Niagara Home Builders' Association, I was at one time a contractor—

Mr Carrothers: I was not actually thinking of him, but anyway.

Mr Bisson: Okay, but I will raise him. Unfortunately, he is not here to defend himself, but I talked to him afterwards.

I was a contractor in drywall construction and textured ceilings. My father was a contractor for himself as well as for companies like Mr Kaiser's and a union member. I buried my father about eight months ago with liver cancer and lung ailments directed specifically, if I can raise the issue, to asbestos in building materials, in the drywall compounds, plastering compounds. These people years ago were not apprised of what was in it, even though the employers knew what was in it.

For the last ten years I have been working for Stelco. I was a contractor before that and was aware even then, before I got involved with health and safety, of the issues. I read what was on the boxes, even before WHMIS came into effect. The people that were working with me, when they started to come into things like seeing a compound which says “asbestos free,” now it is right up in bold letters, even before WHMIS came into effect. Back then it was not, but the employers were aware of it.

With respect to the unorganized, they talked about, “Can you represent the unorganized better than organized labour?” That is a crock also, for the reason that it was labour that brought all these issues to the table. It was organized labour that brought these issues of hazardous materials to the table; it was not the employees that did that.

1550

Mr Fleet: I will venture a little bit further along this particular line, and I use the word “venture” deliberately, because I would like to get a bit of a response on the concerns that some employers would raise. You made comments earlier—and I am talking about the issue of the right to stop work—that you did not think workers came to work with the thought in mind that they are going to stop work. I really have not heard anybody contend that from the employers' side, particularly that on just any old day any old worker is going to have that in mind.

My sense is that the fear of the employers centres around a twofold aspect. One is that, in the context of a very difficult labour relation situation, a work-to-rule situation where workers feel otherwise hard done by or not properly dealt

with in a variety of ways, the objectivity might not be the same as would ordinarily be the case. That, coupled with the degree of the impact of closing down an operation, would have a far greater financial impact for the company and at the same time a much greater impact on the numbers of workers who might be involved in a plant than just a single worker refusing to do work because that worker thought that particular situation was dangerous.

We are talking about fears and concerns at that level. We are also talking about a proposal that is essentially without precedent in Ontario, although the briefs are quite regularly telling us that it exists in Victoria and Sweden but it is certainly not commonplace anywhere in North America as a rule. I am wondering if you could address that, rather than just address the sense that workers are not going to do this every day on a whim. I accept that and I think employers accept that. I am not hearing that as an argument.

The other thing that I have talked about, the problem with the labour relations situation and the problem that they have not had any experience with it and that the financial impact is quite great potentially—I would like to hear how you address those concerns.

Mr Bisson: We had one particular instance in Stelco in Welland where everybody is aware that we had a major PCB problem. We dealt with it nationally as well as locally on a very good basis. There were no work refusals. The union worked with the company, I will not say hand in hand, but with respect to our membership we served them well, as well as dealing with the specific issue of having the worry about the job process and shutting it down.

Mr Farkas: Just on a point, twice in your comments you went into the area of finances. That is the problem at the root because employers in the province and everywhere in Canada continually put profit levels over and above the health and safety of their own employees. I would suggest that if the employers were to reverse that and put health and safety ahead of the profit levels, perhaps we would not be here today and we would not need legislation to protect our people in the plants. But until that day comes, we are going to need that kind of legislation. Your own comments address that perfectly.

Mr Fleet: Do you not accept the fact that all issues of health and safety are degrees of risk and there are degrees of expense? I mean the only truly safe activity is no activity at all.

Mr Farkas: I do not accept anything like that. As workers, we do not go to work to put our

health and our safety on the line. We go to work to bring home a paycheck.

Mr Fleet: When you get in the car, there is no risk involved?

Mr Farkas: Look, when I get into a car, that is a choice that I make. I have to work in order to live. I have to work in order to raise a family, and there is no God-damned way that any worker I represent should have to go into that plant and have to put his health or his safety on the line for any employer, and I do not care who it is.

Mr Fleet: So no amount of financial expenditure is of any relevance?

Mr Farkas: If it is for the protection of the worker, no.

Mr McCallion: Just to address your comments about acceptable risk, I guess, it is acceptable to whom? It is certainly not acceptable to us or our membership that out of 100,000 there may be 10 or 12 of us who are going to die, and "Tough luck, boys."

We are not here as spokesmen for the status quo, by any means. We are here to try to improve workers' health and safety in this province. We are certainly not going to improve it by talking about acceptable risk and, okay, maybe half a dozen, maybe 12, maybe 25 of us will die.

It is okay as long as you are not one of the 12, nor any of your relatives or any of the people you love. I have had people and I know people and I have sat at hospital beds with people and I do not think acceptable risk—any time you want to talk about acceptable risk, you come along with me and visit somebody in the hospital who has almost had his hand ripped off on a machine because some sucker did not take the time to show him how to operate it properly, did not do his job to make sure that there was a guard in place. But as soon as somebody gets a hand ripped off, you cannot get near the machine for guards, and that is the problem in this province—too much after-the-fact stuff. It is time you improved things, now.

Miss Martel: If I may, just before I ask the question, I do not know if we were at the same hearing this morning, but I sure as hell heard the construction industry say this about workers. The Niagara Construction Association believes that a unilateral stop-work right, as proposed, is unnecessary, damaging, creates potential for manipulation by unscrupulous workers and does not necessarily improve workers' safety. If that is not saying that workers are going to use it frivolously, I do not know what is.

Mr Mackenzie: That was just this morning.

Miss Martel: In any event, we have before us three people who teach health and safety and what I want to—

Mr Fleet: I do not want to encourage you on it.

Miss Martel: I do not know if you were at the same hearing as the rest of us, but that is not the first time we have heard that crap, either. Holy Jeez.

The Chair: Do you have a question?

Miss Martel: Yes. It is concerning training because, before the new provisions announced by the minister were announced to the committee, there was an article that appeared in the Toronto Star that talked about some of the possible changes. That was before they were announced, and there was a concern raised there that I would like to deal with, which was that the accreditation process was going to become so prolonged that, in fact, we were not going to have certified workers in place for four or five years, thus not having the right to shut down for four or five years.

What I want to ask you is, because you people, three of you at least, train and have gone through the OFL course, what are reasonable standards that you would expect to be in place where workers could be certified, even in a particular site as well, and how long might that take?

Mr McCallion: My own personal feeling at this time would be that the starting point on that would be the 30-hour awareness course of the Workers' Health and Safety Centre. The Workers' Health and Safety Centre has a level-2 course in progress which can facilitate you to be a better committee member. It trains you in investigation process, hazard recognition, a lot better research, and as part of that, we will have to have some sector-specific training.

We have to have training specific to mine workers if they represent mine workers, specific to public sector workers, and I believe the Workers' Health and Safety Centre is bringing this on. I have great faith in the Workers' Health and Safety Centre as the vehicle for training.

The reason for that is that if you look at how the Workers' Health and Safety Centre has developed from a very small beginning, and it has developed because you have committed people who are really experienced and have a good handle on the real problems and the real solutions for the workers of this province.

The Chair: We are going to have to move on since we have used up more than the half hour.

Thank you and your band for coming before the committee. We appreciate it.

The next presentation is from the United Textile Workers of America. Are the United Textile Workers here?

Clerk of the Committee: There is nobody outside.

1600

The Chair: The United Textile Workers, I gather, are not here. Is the United Transportation Union here and would they mind going now?

Mr Secord: Not at all.

The Chair: We did not get a call from the textile workers, so I do not know what has happened there. Anyway, we appreciate the fact that you will go on early. Welcome to the committee. We are pleased that you are here, and you can proceed whenever you are ready. Your brief is being distributed.

You are Mr West?

UNITED TRANSPORTATION UNION

Mr Secord: I am Tim Secord. Mr West is over here and this is Mrs Punch on my left.

You will notice that this brief is in a format where it almost seems that we are throwing all these facts and figures back in your face. Well, it is our understanding, and it has been our experience, that if we do not do this and put it back in front of you, we are just talking about something that is completely vague. We have to have these figures right in front of us or else we are not sure what we are talking about.

The United Transportation Union respectfully submits our submission to the standing committee on resources development. This body represents thousands of railway, bus and industrial workers in the province of Ontario—15,000. We welcome the opportunity of presenting our views and concerns to the committee and trust that our presentation will be as well received by this committee as have been other presentations in the past.

The presentation of this brief today reflects the views of the UTU following the first and second readings of Bill 208, in January and October 1989 respectively.

The blueprint for this brief will be to first touch base on the background and contents of the original draft of Bill 208, address the underlying needs for such legislation and, last, to speak to the amendments proposed at second reading and suggest alternatives that will ensure that the strength and meaning of the original draft of Bill 208 are not lost.

I refer the committee to document 1, found in the back of the brief, outlined by the first blue cover. It is a news release numbered 89-03 and dated 24 January 1989. The following is what the former Minister of Labour, the member for York Centre (Mr Sorbara), had to say in January 1989:

"Workplaces in which illness and injury are prevented and health and safety are protected contribute to the effectiveness and productivity of Ontario enterprise," he said. "They are basic to an equitable society and a strong economy."

"Mr Sorbara's proposals to amend the Occupational Health and Safety Act, tabled in the Legislative Assembly this afternoon, are designed to:

"Give workers and employers greater joint responsibility for health and safety and greater authority to reduce workplace risks.

"Provide labour and management with the education and training they need to exercise their authority effectively.

"Provide for stricter enforcement of the act by workplace parties and the Ministry of Labour in a number of ways, including raising 20-fold, to \$500,000, the maximum fine for corporations who contravene the law.

"These amendments constitute a bold, new approach to reducing the risks of workplace accident and illness," the Labour minister said. "They have been developed following consultation with representatives of both labour and management. They are driven by a belief that the people who must live by our workplace health and safety rules must play an active role in shaping them and the system they create."

"The amendments:

"Call for the creation of the new joint labour-management Workplace Health and Safety Agency to take the lead role in educating and training workers and employers in effective health and safety practices.

"Greatly expand the network of workplace health and safety committees in Ontario and give the committees, consisting of both labour and management, greater responsibility for inspecting workplaces and fuller access to information about workplace risks.

"Expand a worker's right to refuse work to include a concern that a work activity, such as lifting a heavy object, is likely to endanger.

"Mr Sorbara said the expanded right-to-refuse provisions would also ensure a worker's right to 100 per cent of the wages and benefits that had accrued during the first stage of the investigation of the refusal.

"The single, unwavering purpose of these amendments," the minister said, "is to fulfil a fundamental obligation of this government to make workplaces as safe as humanly possible."

I have to re-express the word "fundamental" because this government is still in power.

"There will also be special training for committee members leading to certification. Each committee will have to have at least one certified labour member and one certified management member. Certified members will be empowered to order work stoppages if they find a provision of the act or regulations is being contravened; the contravention poses a danger or hazard to a worker, and the danger or hazard is such that any delay in controlling it will cause serious risk to a worker.

"This is a considerable power," Mr Sorbara said. "Together with the many other provisions in this bill, it will contribute to a standard of health and safety of which people can be proud." Again, I emphasize that last point. "The bill goes to some lengths to establish checks and balances on the exercise of it."

"The minister emphasized that effectiveness of both joint health and safety committees and worker representatives 'will depend on their training and the information available to them.'

"In addition:

"An employer will be obliged to respond in writing to any recommendations made by a joint committee or a worker representative within 30 days of receiving them. The reply will have to contain a timetable for implementation, or give the reasons for the employer's disagreement.

"Employers will be required to share with the committee or worker representative any information the employer has about potential hazards at the workplace or in similar or other industries.

"Directors and officers of a corporation will have a duty of care to safeguard the occupational health and safety of workers.

"Employers will have to maintain and provide a written health and safety policy."

I refer the committee to document 2, "Basic Tenets." This was found in Mr Sorbara's occupational health and safety paper in January. These are statements that were made, the principles on which the amendments were founded:

"(i) The health and safety of Ontario's workplaces must be improved.

"(ii) A genuine improvement can come only from the effective involvement of workers and employers.

"(iii) For this involvement to be meaningful, those in the workplace must be well trained and well informed on health and safety practices.

"(iv) Improved health and safety requires control of workplace risks"—as I just recently heard mentioned—"by workers and employers. In turn, effective control requires that both workers and managers have appropriate rights and authorities.

"(v) These rights and authorities must be linked to appropriate capabilities and to assurance of responsible behaviour by both parties.

"(vi) To ensure adherence to standards and procedures which serve to minimize workplace risk, government must have the necessary tools to enforce the legislation and to apply sanctions for failure to meet obligations.

"(vii) Those employers with exemplary occupational health and safety programs and performance should be rewarded while those with poor performance should be more closely targeted for special scrutiny and sanctions.

"(viii) To provide a structure for this more integrated and collaborative approach to occupational health and safety and greater involvement of the workplace parties, a new agency will be established (the Workplace Health and Safety Agency)."

The government's own background paper went on to say the following: "These principles flow from a view that worker health and safety is too important to be the subject of conflict in the workplace. This perspective guides Ministry of Labour efforts to improve occupational health and safety."

It is the belief of the United Transportation Union that these principles are still valid and always will be. The passage of time without progressive change means we merely get older without getting any wiser. In early 1987 it appeared a victory was in sight for some workers previously exempt from the act. Bill 106 died on the order paper but, like the phoenix, Bill 208 arose from its ashes. Now amendments to Bill 208 which radically alter the intent of the original draft legislation as presented by the then Minister of Labour, Mr Sorbara, threaten to have this bill die on the order paper and/or dilute its content to such a degree that the objectives of the original draft could never be met in any meaningful way.

Refer to exhibit 1. It is an OFL information paper, at the back again, full of facts and figures. In 1988 there were 69 deaths of gold miners with lung cancer, which was first recognized in 1988. There were approximately 293 deaths, 489,819 compensation claims, of which 215,184 were

lost-time claims and 9,428 permanent disability claims. From 1 January to 24 April 1989 there were 91 fatality claims awarded by the compensation board. From 1 January to 31 March 1989 there were 117,935 workers injured on the job. Figuratively speaking, that amounts to 1,871 workers injured on the job every working day in this province, or 233 injured every hour.

These figures do not account for the approximately 6,000 Ontario workers who fall victim to occupational disease in a year. Those are from Dr Annalee Yassi's study for Paul Weiler's inquiry into the compensation system.

1610

In 1987 more than seven million working days were lost to occupational accidents and illnesses. That is approximately seven times more days lost to the economy of Ontario due to injury, death and illness than were lost through any labour disputes. Compensation payments totalling \$1.45 billion were paid out in 1987, not to mention the over 300 work-related deaths that year.

The working people of this province are told that to better our economy we must become more productive, yet the \$1.45 billion in compensation payments resulted in a loss of \$6 billion to \$10 billion in indirect costs such as lost production and retraining. It seems we could still improve our economic situation by spending some of those billions on the fulfilment of principles such as those contained in Bill 208, principles which would ultimately save money through lower numbers of compensation claims paid out, which in turn would benefit workers and employers alike.

There are approximately 287 government inspectors for approximately 180,000 workplaces in Ontario which employ almost four million people. If the protection of workers in the provinces fell under the jurisdiction of the Ministry of Natural Resources, we would have twice as many inspectors. This organization wishes to clearly go on record in its request that the fish and game of this province get the same protection the workers of this province now receive and allow the workers to get the protection the wildlife presently gets. Somewhere in this bureaucratic jungle someone got the priorities crossed or maybe threw us a red herring.

Employers in this province who were found to be in violation of the act or regulations and who were subjected to fines paid an average of \$2,346 in the 1987-88 fiscal year.

In a survey of the internal responsibility system by the Ministry of Labour's advisory council, the council found that—and these figures are astonishing:

1. Seventy-eight per cent of the workplaces are in violation of the act or regulations.

2. Thirty per cent to 40 per cent of our workplaces with designated substances had not carried out an assessment or implemented a control program to reduce toxic exposures as required by law.

3. Seven per cent of workplaces with 20 or more workers had not established a joint committee.

4. Thirty-four per cent of smaller workplaces with designated substances had not established a joint committee as required by law.

5. About 30,000 offices and retail outlets are simply exempted from the right to participate through joint committees.

6. About 35 per cent of joint committees had worker representatives selected by management.

7. Sixty per cent of committees had a single chairperson and in 73 per cent of those cases the chairperson was from management.

8. Ten per cent of all committees did no inspections at all.

9. Forty per cent of workers and 20 per cent of management had no training whatsoever in health and safety.

To quote the advisory council in 1986, it stated, "The promise of improvement in the future wellbeing of workers implied in the royal commission report has for the most part gone unfulfilled."

In 1978, when the act was introduced, the right to refuse met extreme opposition from employers, citing the potential of abuse. Potential abuse had never materialized. We now realize we need a right to stop work, which would be vested in certified representatives in order to ensure the idea of the internal responsibility system meets the health and safety needs of the working people of this province.

Given the astounding figures of workplace accidents, illness and death since the inception of the act, it must be realized that not all workers understand their rights under the act and those who do are, for the most part, intimidated into not exercising them. By having well-trained, certified representatives, they can ensure that these statistics are reduced by ensuring that the health and safety rights of all concerned are protected and adhered to. That information is in document 1, page 3. That is the news release.

There has been a 23 per cent increase in the number of workplace deaths between 1987 and 1988, which serves to underline the incessant need for changes to the act. We believe the government has an obligation to the workers of this province to provide us with a real ability to act to protect our health and safety on the job regardless of the incursions of the business community, which are based primarily on their motive for profit.

In January 1989, in the government's presentation of Bill 208 to the Speaker of the House, the government stated, "The bill flowed from a vision that productivity and effectiveness of Ontario enterprise are nourished by the value we place in fair and equitable workplaces...workplaces where health and safety was going to be protected." The government went on to say: "Workplaces in which illness and injury are prevented and health and safety are protected contribute to the effectiveness and productivity of Ontario's enterprise. They are basic to an equitable society and a strong economy."

These were strong words that recognized a direction and a need, words which will effectively be turned to ashes if this standing committee on resources development should adopt the amendments proposed by the Minister of Labour in the House in October 1989. We can only hope that the vision of this committee is not blinded by the business community's quest for profit at any expense.

The proposals of the minister represent an attitude that even with the present number of workplace accidents and injuries, astounding as they may be, they are acceptable to the employers of Ontario and are representative of all business/employers' views that the protection of workers is secondary to profit.

The maxim of the United Transportation Union is "Progress Through Unity—Unity Through Progress," but we find it hard to fulfil this statement of belief when our concerns fall upon deaf ears. The United Transportation Union has been unbeguilding, understanding and respectful of the opposing views it has come to face over the years and we would expect to be afforded the same attitude and treatment by having our concerns seriously considered by this committee.

In closing, the UTU viewed Bill 208 as progressive and constructive based on the recognition of possible change through amendments. It is our opinion that the changes, as proposed by the Minister of Labour on 19 October 1989 to the House, make this bill much less progressive for

workers in this province and, quite frankly, unacceptable.

We in the UTU appear before this committee with the belief and the confidence that the employers of this province cannot substantiate their discourse. This committee must act with the utmost vigour to stop the regressive proposals made by the minister in order that the health and safety of the workers of this province are protected—protected to the extent that this government's own words do in fact become a reality for the workers of this province:

"Workplaces in which illness and injury are prevented and health and safety are protected contribute to the effectiveness and productivity of Ontario enterprise. They are basic to an equitable society and a strong economy...the single, unwavering purpose of these amendments is to fulfil a fundamental obligation of this government to make workplaces as safe as humanly possible." That was said by Mr Sorbara, the former Minister of Labour, on 24 January 1989.

On behalf of the UTU, we thank you for the opportunity to express our concerns on Bill 208 and respectfully request a serious review of the amendments contained within this material. We hope that we may all have the opportunity to be employed in workplaces free of accident and injury. Again, we thank you.

The Chair: Thank you, Mr Secord. Any questions from members of the committee? You seem to have completely overwhelmed us with your logic.

Mr Secord: You guys wake up now. Come on.

Mr Carrothers: A realist, Mr Chair, a realist.

Mr Mackenzie: I think you have accurately portrayed the arguments we are getting from the various groups that are concerned with the health and safety of workers, that the amendments, not expected and not brought in with any consultation with labour, certainly if not totally gutting the bill, come very close to it.

I simply wonder if your people this time, as well as talking to us and presenting your views as effectively as you have in the brief, will also be monitoring the results of this legislation as it moves through the committee stage and through the House.

Mr Secord: Definitely. If I may point out, Mr Sorbara said at the time that the government was going to move in a direction to protect the health and safety of workers in the workplace in an instance in which we could all be proud of.

Now I think these amendments are lying with this committee now and you are going to make the decision on this. You have an opportunity right here, through these public hearings and when you go back to the House, by taking the consultation of labour and our concerns with you, by accepting our views and taking the workers' concerns into perspective, in your decision, whatever it may be, you have to remember when you make that decision that it is not only for the workers of this province under provincial jurisdiction; what you do in the provincial sector is going to have an adverse effect on what happens in the federal sector.

If it happens in the federal sector, it is going to happen right across this continent because this Bill 208, with a little work and not with the help of Mr Phillips, could be the most progressive piece of legislation in the North American continent when it comes to health and safety.

The Chair: If everyone is clear, at this point in time the committee has not been presented with any amendments. What we are dealing with is the existing Bill 208; what we have is an indication from the minister that there are some amendments he would like the committee to consider. At this point in history, we are dealing with Bill 208 as it was originally tabled and presented in the Legislature, just so that is clear.

But you are quite right about the amendment process. The committee, when we are finished the public hearings, will sit down—just the members—and go through the bill clause-by-clause to determine what, if any, amendments will be made. That process is with the committee at this point. You are quite right.

1620

Mr Secord: I got a little ahead of myself. I am looking at the end of the line here, what is going to happen to us next.

Mr Dietsch: Perhaps, Mr West, with all your broad knowledge of health and safety legislation in all other jurisdictions of North America, you can indicate to us where in North America there is legislation that is more progressive that what is being proposed right now.

Mr Secord: What is being proposed or what is going to be axed? If we accept Bill 208 in the manner in which Mr Sorbara put it to us, we can live with that, but we cannot live with what Mr Phillips is trying to do to Bill 208. If we are talking about Bill 208, if it is amended by Mr Phillips's proposals, Sweden has more effective, more progressive safety legislation and Australia

has more effective, progressive health and safety legislation.

Mr Dietsch: And where in North America?

Mr Secord: Oh, I am sorry. Those countries do not exist over here, but this is the place it is all going to happen. This committee and this government have an opportunity to make it happen.

Mr Dietsch: Mr West, I guess I was picking up on the comment you made at the end, that we have an opportunity for the most progressive piece of legislation in North America. I think that is a realistic possibility. I am asking you where else there are more progressive pieces of legislation in North America dealing with health and safety?

Mr Secord: In 1975 in the state of California, health and safety legislation was passed and then Governor Deukmejian got in and he did the same thing Mr Phillips is trying to do to our Bill 208. Even though the legislation was passed, if it is not enforced, what good is the legislation?

The Chair: Just for the record, this is Mr Secord speaking now, not Mr West.

Mr Dietsch: I am sorry. I apologize.

Mr Secord: I have been called worse.

Mr Dietsch: So have I.

The Chair: Is there anything else? If that is all, thank you very much for your presentation this afternoon.

Mr Secord: Thank you, Mr Chairman and members of the committee.

The Chair: With respect to the other presentation from the United Textile Workers, the clerk has phoned them and they are going to send in a written submission to the committee and will not be appearing this afternoon.

I want to express my appreciation to those people who have made presentations all day long. The quality of the briefs is an indication of how seriously people on both sides consider the bill to be. I would also like a special thanks to our Hansard operators for struggling through the day with us. We are adjourned until tomorrow morning.

The committee adjourned at 1625.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Martel, Shelley (Sudbury East NDP) for Mr Wildman

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Luski, Lorraine, Research Officer, Legislative Research Service

Witnesses:**From the St Catharines and District Labour Council:**

West, Rob, President

MacNally, Gabe, Vice-President

Kuzak, Moe, Canadian Auto Workers, Local 199

Therrien, Claudette, Niagara Peninsula Area Council, United Steelworkers of America, District 6

From the Niagara Construction Association:

Klassen, John, President

Christensen, Peter, Director

From the Canadian Union of Public Employees:

Norton, Glenn, Secretary-Treasurer, Local 1263

Williamson, Allison, President, Local 1097

Mansell, Ted, President, Local 152

From the Niagara Home Builders' Association:

Kaiser, Stephen, President

From the Ontario Marine and Engineering Employers' Advisory:

Fielding, Ian, Chairman

Huneault, Fred

From the Ontario Public Service Employees Union:

Soto, Greg, Vice-President, Local 214

Kinnear, Rob, Local 220

Selkirk, Russel, Local 248

From Safetyscope Inc:

Morrison, Tim, President

From the United Electrical, Radio and Machine Workers of Canada, Hamilton-Niagara Region:

Farkas, Steve, National Representative

McCallion, Robert, President, Local 523

Bisson, John, Health and Safety Committee Member

From the United Transportation Union:

Secord, Timothy S., President and Legislative Representative, Local 537





No. R-3

Hansard

Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development

Occupational Health and Safety Statute Law Amendment Act, 1989



Second Session, 34th Parliament

Wednesday 17 January 1990

Speaker: Honourable Hugh A. Edighoffer

Clerk of the House: Claude L. DesRosiers

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with a list of the members of the committee and other members and witnesses taking part.

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Also beginning with the new session, the page size will be increased to $8\frac{1}{2} \times 11$ inches from the present $6\frac{1}{2} \times 9\frac{1}{2}$.

Because all committee sittings now are being formally printed, separate subscriptions are required for sittings of the House and sittings of the committees. Separate indexes also will be published for the House and the committees. Effective the end of 1989, they will be on a calendar-year basis, not sessional as at present. Page and sitting numbers now run from the beginning of the year rather than the session as before.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday 17 January 1990

The committee met at 1009 in room 1.

OCCUPATIONAL HEALTH AND SAFETY STATUTE LAW AMENDMENT ACT, 1989 (continued)

Consideration of Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

The Chair: The standing committee on resources development will come to order. The first presentation this morning is from the Canadian Manufacturers' Association.

CANADIAN MANUFACTURERS' ASSOCIATION, ONTARIO DIVISION

Mrs Caldwell: Thank you, Mr Chairman. My name is Barbara Caldwell and I am chairman of the Ontario division of the Canadian Manufacturers' Association. With me here today are Wayne McLeod, vice-chairman, Ontario division; Jim Stewart, senior vice-president of Du Pont Canada Inc, and Gordon Lloyd, director, legislation and technical group.

The Canadian Manufacturers' Association is committed to improving workplace health and safety. The CMA, for example, is one of the primary architects of the workplace hazardous materials information system. The CMA supports the objectives of Bill 208 to improve occupational health and safety training and to reinforce the internal responsibility system. Some of the measures in Bill 208 further these objectives. Examples include increasing the involvement of the workplace health and safety committees in health and safety issues and ensuring that management responds to their recommendations. However, our members have major concerns about Bill 208. It contains a number of very serious flaws and some provisions that virtually all Ontario employers adamantly oppose.

The major problems the CMA has identified with the bill are:

1. Certified workers should not be empowered to act as inspectors and issue stop-work orders.

2. The bill needs to ensure that nonunion worker representatives participate on the board of directors of the proposed workplace health and safety agency and on other boards of the proposed agency. Otherwise, the two thirds of

Ontario workers who are not unionized will be unrepresented and the agency would have a built-in bias.

3. Lastly, the bill needs to ensure that the successful work of the existing safety associations continues. In general, they are doing fine work.

Bill 208 empowers certified workers to unilaterally stop work that they feel is unsafe. The ministry estimates that 200,000 people will need to receive the required certification training. Will certification training be adequate, given the important stop-work powers that certified workers will have? Are these new powers needed? Will these powers be abused? We need to ask several questions about the stop-work powers.

The CMA simply does not believe that adequate expert training can be provided to properly equip a worker to judge when to unilaterally stop work, particularly for complex continuous operations. Individually, Ontario workers already have the right to refuse to work if they think it is unsafe. We believe this fully protects them. There has been no evidence put forward by the ministry to support the need for the additional unilateral stop-work proposals of Bill 208.

The ministry has tried to justify the new stop-work provisions on the basis that the certified workers would be able to act as inspectors for the ministry. This is an extraordinary, impractical and quite unfair proposal. It is naïve to think that certified workers would always act as objective inspectors and that stop-work would not be used capriciously or improperly in heated contract negotiations. This is giving authority without responsibility.

The extraordinary unilateral stop-work power has long been recommended by unions across Canada. Every other jurisdiction that has considered it has rejected it out of hand. This is the case in Quebec and New Brunswick. These provinces already have agencies similar to what is now being proposed for Ontario that involve labour and management in determining occupational health and safety policy.

As we understand it, the minister has suggested that instead of the unilateral right to stop work that certified workers would have under Bill 208, a system could be put in place that would

generally rely on joint worker-management decisions to stop work, and for companies with serious health and safety problems and poor performance, empower unilateral stop-work decisions and also enable a ministry inspector to be assigned to the company at the company's expense.

We continue to oppose unilateral stop-work powers even for poorly performing companies and we recommend that this proposal be dropped. However, we could reluctantly accept the minister's proposal to empower specially trained labour and management health and safety committee members to make joint decisions to stop work in situations of immediate danger, provided a unanimous decision by both was required before the action could be taken.

For poorly performing companies, unilateral stop-work powers are likely to result in worsening what is probably an already poor labour relations situation. Here the internal responsibility system has already failed, and reliance on an independent third party such as a ministry inspector is a better way to improve health and safety performance.

A process should be defined to determine the circumstances that would justify ordering an inspector into a company at the company's expense to correct serious health and safety problems that could not be solved by other means. We recommend that that process be developed by the Ministry of Labour involving effective consultation with industry and approved by the standing committee on resources development as part of the second-reading debate on Bill 208.

Our second major concern is the agency structure itself. The minister has indicated that Bill 208 will be changed so that the structure of the workplace health and safety agency will be improved. There will be a neutral, voting chairperson, and industry and labour will each need to include two voting health and safety professionals among their representatives. These steps will help to depoliticize and depolarize the agency. However, the most important question about the agency must be, "Will it be representative of the workplace parties?"

The Labour ministry has indicated that all labour representatives on the agency board will be from organized labour, despite the fact that only 34 per cent of the Ontario workforce is unionized. If the agency is to be accepted and effective, the bill must provide that nonunion as well as unionized workers be represented on the board. Any other provision is quite undemocratic

and leaves two thirds of Ontario workers unrepresented. The agency will become a source of polarization and conflict rather than a co-operative force for improvement. As we understand it, the minister has indicated that nonunion worker representatives will be able to participate on the safety association board and we see no reason why this sensible democratic approach should not extend to the agency.

To reflect the makeup of the Ontario workforce, the majority of the labour board members should be workers who are not unionized and only one third should be union representatives. CMA has developed a specific, practical proposal set out in the appendix to our brief, which each of you has a copy of, to achieve such representation on the agency. If our proposal for democratic labour representation on the agency is accepted, we believe the agency is more likely to stick to an occupational health and safety agenda and be an effective agent for improvement in Ontario.

Our final major concern is the impact Bill 208 will have on the safety associations. The existing safety associations are made up of very committed professionals and volunteers and they generally do an effective job. Bill 208 requires that the safety associations be completely reorganized to be jointly run by labour and management and places them under the direct control of the agency. Instead, we believe that the agency should be given an advisory role in broadly developing policy for the operations of the safety associations but that the safety associations themselves should largely be left to function as they do at present.

The proposal by the minister to change Bill 208 so that the associations can determine the composition of their boards so long as they are half industry and half labour, rather than leaving this in the control of the agency, is a positive step. Although this is not specifically stated, we understand that the minister's proposal recognizes that labour representatives will not have to be union representatives and can thus reflect the true composition of the workforce. As noted above, this principle should also apply to the agency board. The proposed change in safety association board membership will assist the associations to continue to work effectively on practical health and safety problems, but it does not go far enough in separating the safety associations from direct control of the agency. This is particularly important if the agency is set up so that only organized labour is represented on it.

Ladies and gentlemen, these are CMA's major concerns with the bill. To summarize, we oppose

unilateral stop-work provisions and the undemocratic representation in the makeup of the agency and we also feel that the existing health and safety agencies need to retain their independent professional functioning.

1020

In addition to this presentation, I would like to ask that Dr Stewart and Mr McLeod perhaps give you some of the experience in their own companies as regards this proposal.

Mr Stewart: I would like to support the CMA position by illustrating some of the implications of the points that Barbara has raised, referring particularly to my company.

Du Pont Canada is a diversified chemicals, fibres and plastics manufacturer, about \$1.5 billion sales. We have 4,500 employees. Some of our plants have Ontario Federation of Labour affiliated unions, some have independent unions, some are nonunion. We have one of the best safety records in Canada; indeed, in North America. Our lost-work frequency is perhaps 25 times better than the industry average in Canada. In 1989, with 4,500 people, three lost time because of injuries. One of our plants holds the record for the safest plant in Canada: 12 million man-hours without a lost work case. That is a thousand workers for six years without anyone losing a day for injury.

I do not say this to boast, because our philosophy is that all accidents can be prevented, and as long as one injury occurs, we are not satisfied. I say it simply to establish that we know how to manage safety and therefore have, I think, the kind of background to comment with authority on some of the provisions of this bill. We established this safety record with a team-work philosophy that I believe is diametrically opposed to much of the thrust of the bill.

Speaking first of all to the stop work provisions, in an emergency in our operations, any employee can shut down our equipment and is expected to do so. In fact, it is part of his or her job description. But shutting down a plant is not a trivial matter, particularly in complex continuous operations such as, for example, a nylon polymerization unit such as we have in Kingston. It could leave the unit down for days, cost millions of dollars and, in itself, cause major safety problems. Such a shutdown would not occur trivially. It would be discussed and assessed by management, by engineers, by technical people and by operators before such a decision was made, except in an emergency. It would be impossible for us or anyone else to train a worker representative to weigh and assess all

the aspects of such a shutdown. If we could do such training, it is pretty obvious that that person would be perhaps the plant manager. Even he will consult with many people before a shutdown takes place.

We in the chemical industry are in fierce competition with our competition in North America and throughout the world, and in our case, as part of a multinational, we are in competition with our affiliates elsewhere for investment. We want that investment to be in Ontario, and much of it has been. This kind of bill alone will not prevent that, but certainly the questions are asked, "Why should we place investment in a jurisdiction that boasts that it is the only one in North America to give workers unilaterally the right to shut down plants?" We believe that workers are well safeguarded already by the existing provisions for refusal to work and no case otherwise has been made by the ministry.

Turning to representation on the agency, and again trying to personalize it to our situation, we object very strongly to the proposal that the worker representatives on the agency board or any other part of the safety association structure be all from unionized workplaces. Of our wage roll people, 30 per cent of our workers belong to OFL affiliated unions, 50 per cent belong to local independent unions and the remainder are nonunion. The proposal of the bill would see 70 per cent of our people unrepresented, somewhat similar to the statistics across the province. In our company, safety is not a matter for conflict nor for negotiation. Our unionized plants have the same undifferentiated team effort on safety as our nonunion plants and are as safe.

Referring to the safety association, we have participated very strongly in the Industrial Accident Prevention Association since its formation. At its last conference, for example, in the spring of 1989, we had 94 attendees. Some 40 of those were wage roll employees. We do not differentiate. I only found that out by asking the question to be able to present it to you. Today the IAPA is not polarized. I believe it does very good work for us and we participate very strongly in it. I believe it does good work for all Ontario workers. Will that continue under an agency that is polarized between labour and management, that has perhaps a different agenda? Will we and employers like us participate as enthusiastically and send our people to participate in an agency in the management of which they are not represented?

To turn to a positive side of it, if I were asked, "What should the agency do to help to achieve all

of our mutual goals of improving safety in Ontario?" I would turn back to something that is quite fundamental. I would say there are workplaces in Ontario that are many times safer than the average, as there are some that are worse. What is the reason for this? Why can some workplaces have a record that is 25 times better than the average? We believe the role of the agency should be to seek out what makes these workplaces so safe and try to leverage that knowledge and expertise to improve the rest. I can tell you that it is done by commitment and undifferentiated teamwork, not by the we-they conflict approach that underlies so much of this bill. We believe that many of the proposals of the CMA will help prevent that conflict occurring.

Mrs Caldwell: Wayne, would you like to speak to your own company's experience.

Mr McLeod: Thank you for the opportunity. I will just probably end up reinforcing all the comments of Mr Stewart because I think we also come from a manufacturing environment that does have a high concern for safety. I just want to make a few comments on that.

I guess we get a little frustrated with the proposed legislation. We as a company already spend substantial amounts on safety and training of our people. I guess the basic issue we are all wrestling with here is, is this type of legislation really needed or is it an overkill to be imposed on manufacturing in Ontario to maybe deal with some obvious problems of a very minor group?

The legislation, to our minds at CCL Industries Inc, assumes that either we cannot or we will not deal with the problem of safety in the workplace. That, from the CCL point of view, just plainly is not true. I would like to think that for the vast majority of manufacturers in this province that assumption is incorrect. I think if you ask and if you do your research, you will find that safety is a very high-priority item to most manufacturers in this province. Certainly that has been our experience.

In our company, we already have safety committees. Those safety committees are composed of people on our lines, supervisors. They meet regularly. They pinpoint problems and they pinpoint potential problems, and I am sure not going to sit here and say that we, as a company, have a perfect safety record. I think that is probably an impossible situation when you have many divisions and many opportunities. But we are very proud, as a company, of the four- and five-star safety awards that our various plants have received and that recognize the kind of

focus and commitment that we, as a company, are already putting into this very important issue.

We have supervisors who are trained for safety, who are already trained to recognize potential dangers, and our communication with our people on the line shows, I think, from the results we have.

Our bottom line, whether we like it or not, is that safety is just very good business. Safety is essential to get a reasonable product out the door; safety is a very important issue in the morale of your employees. If you have employees coming to the plant with a perception that they work for owners who do not care about safety, you are going to have some very significant problems with morale and you are going to have some very significant problems in recruiting. From that point of view, it is just good business to be focusing on safety.

Last and not least, safety is a moral issue. We like to think that we can all go to bed at night knowing that our people are working in plants are reasonably safe. We would like our employees to think we have that kind of concern as well.

I guess my point is that we believe most of the very fine manufacturing companies in this province should not be burdened with the kind of legislation that is being proposed right now, with all of the practical problems that can be pointed out that will arise from that, when it is obvious from research that an issue of significance has not yet been identified with most of the manufacturers in this province.

The award program sponsored by this government, all the safety focus that we all subscribe to—in our humble opinion this is unwanted, unnecessary overkill and we would suggest that the focus, very much as Mr Stewart said, should be directed to companies that either do not care or do not wish to care about safety. That is where the focus on behalf of the people of Ontario should be. We strongly suggest that this legislation not go forward and that the thinking be refocused to deal with the problem manufacturers of this province.

1030

Mrs Caldwell: If I can add a personal note to that, I was interested to hear Wayne talking about good safety is good business. I run a very small manufacturing plant, not in a high-risk business. In 13 years we have perhaps never had a lost-time accident, but we do have a safety committee. Our concerns have been to do with levels of noise in our plant. Our safety committee is the same group of people who are on our profit-sharing

committee. We think that is fairly significant because they see it as an issue for them as well.

I can tell you that from our perspective we would be very concerned, having worked very successfully with the Industrial Accident Prevention Association, if any agency came in that was composed completely of union representatives. That would be very disturbing to our small plant. That is our presentation. We welcome your questions.

The Chair: We have roughly five minutes remaining. Mr Mackenzie, Mrs Marland, Mr Lipsett, Mr Dietsch, Mr Fleet and Mr Carrothers would all like to have an exchange with you, so we will start through the list. I encourage members to be as brief as possible because we must not exceed the 30 minutes.

Mr Mackenzie: Can you tell me how many of Ontario's corporations belong to the CMA and whether you represent all of them?

Mr Lloyd: There are 1,800 manufacturers in the province that belong to CMA and I think we represent them. We have a structure that allows their views to be brought forward.

Mr Mackenzie: That is 1,800 out of how many? Have you any idea?

Mr Lloyd: It depends how you want to define manufacturing in the province, but I think we have about 75 per cent of manufacturers in the province.

Mr Mackenzie: You made a major case of your concern with the right to refuse. Have you run into misuse of this? I put this in context. I have no idea whether or not Stelco is one of the members of your association—I suspect it is—but Mr Telmer on Monday made it very clear in response to questions that they had absolutely no problem. Where they have a strong union and do have health and safety problems, they have had no problems whatsoever with the right to refuse.

Mrs Caldwell: Jim, would you like to address that?

Mr Stewart: We believe the right to refuse that exists in the present legislation fully protects workers. From our own point of view, in the time that provision has been in place I believe we have had three refusals to work. It is interesting that they occurred quite a few years ago and that they occurred in a unionized plant during the process of negotiations and that all were proved to be frivolous. I am not inferring that is the case with all refusals to work. Obviously it is not, but it does illustrate the potential for refusal to work being disruptive. It does illustrate the potential

for a stop-work in a negotiation situation being even more so.

Mr Mackenzie: That is the first statement we have had so far, even from management, other than a fear that it might happen, that they have actually had stop-work situations. For my final question—I have a number I would like to ask but I know we are stuck for time—I take it from your comments that you certainly oppose Bill 208, but that with the amendments the minister has suggested you might be able to live with it. Am I close to that or do you need still more amendments than have been proposed by the current minister. Reluctantly I know, but in one case could you accept it?

Mr Lloyd: I think the point made in the submission that has been gone through, and is gone through in more detail in the brief in front of you, is that some of the minister's amendments are steps in the right direction that need to be supported, but more fundamental change is required, particularly in the representation that is going to be on the agency, the need for the autonomy and good professional work of the safety associations to be able to continue and the need for the stop-work provisions to be further thought through. In our view, unilateral stop-work has no role.

Those are fundamental changes that go farther than what the minister has yet proposed, but that we hope the committee will support.

Mr Mackenzie: I take it you reject the arguments defending some of the measures in the bill that the previous Minister of Labour, Mr Sorbara, put forward.

Mr Lloyd: Yes.

Mrs Caldwell: Yes, we do.

Mrs Marland: I guess what I am hearing from you very clearly is that this kind of legislation is not needed in your opinion and that you object to the elephant gun to kill the fly approach. Certainly there are some problems in some sectors of employment in this province. We are hearing that from the unions and we know of examples through the injured workers, but what you are saying is, and I certainly think—is it Dr Stewart or Mr Stewart?

Mr Stewart: It does not matter. Jim will do.

Mrs Marland: Jim, your company is probably a high-risk company as far as employment is concerned and you have a phenomenal safety record. Your right to refuse work is there now, and even without that in a company such as yours an emergency would be an automatic work

stoppage. So you are saying you do not need to be told how to run your own business.

Mr Stewart: Sure.

Mrs Marland: Okay. To have that kind of safety record at Du Pont is pretty phenomenal and maybe what we should be looking at is legislation that provides a remedy where a remedy is needed and not painting across everything with the same brush. We certainly are hearing the concern that nonunionized organizations and employment sectors take exception to that part of the bill, so we are listening to that.

The Chair: Mr Lipsett.

Mr Lipsett: Part of my question has been answered by comments so I will pass.

Mr Dietsch: I am curious as to your viewpoint in terms of the safety associations, based on the agency's responsibilities as outlined in the bill, that it would basically be that of developing and delivering a safety education training program and a standard of rules and regulations for development of certification with respect to safety. The fact that the safety associations would be co-ordinated under the agency, how do you see that interfering in the role of the safety associations?

Mrs Caldwell: Are the safety associations not now setting guidelines for safe workplaces?

Mr Dietsch: Each in their own particular right, but in terms of drawing some common points together under the agency, the fact that there would be just a change in reporting on behalf of the associations to the agency, how is that going to interfere with your concerns?

Mr Stewart: As mentioned by the previous questioner, it adds another, unnecessary layer of bureaucracy to what are now independent, self-operated and effective safety associations. If it only provides a co-ordination role, there may be some benefit there, although I fail to particularly see it. If it becomes an intrusive role by an agency that is not representative of the workplaces in Ontario and that tries to impose another layer of bureaucracy on those successful safety organizations, I cannot see what it is going to achieve. If that agency has any benefit, it would seem to me that what it could do is concentrate on developing information.

This is an unanswered question. If I were a person facing a problem and I saw that somebody else had solved the problem, I would not be putting in irrelevant legislation or provisions to solve that problem. I would go and say: "How do you do it? Let's see if we can find that out so we can lever it elsewhere." If the agency has

anything to do, it should be that kind of role: "How can some workplaces be so safe? How can we get that information and education to others?" instead of the bureaucratic attempt to control them that appears to be part of this legislation.

I work with the IAPA more than I expect anybody in this room does—I cannot say that for sure—on the board and with all of our people and we have tried to improve it in every way we can. I do not see that it can be made more effective than it is.

1040

Mr Dietsch: Obviously you seem to be hung on a role where you feel there would be bureaucratic interference in a particular safety association. I think the agency, as has been proposed under the legislation, would be responsible for developing—you have to remember the makeup of the agency being equal part labour and equal part management, with the proposal of the minister in terms of dealing with a neutral chairman. So there is no bureaucratic interference. They are workplace partners trying to develop better training and better education for the enhancement of the safety of workers in the province. I am not sure I understand where there would be any bureaucratic interference.

Mr Stewart: Let me just take issue with your point that this would be equally labour and management. You need to be very careful that you define that as equal between organized labour and management, remembering that this undemocratically disfranchises two thirds of the workers in Ontario, including almost all small businesses.

Mr Dietsch: One final question: Do you think organized labour looks at safety issues differently than nonunionized, perhaps shop associations look at safety? Do you think they look at it differently?

Mrs Caldwell: I think our concern—

Mr Dietsch: I actually wanted Mr Stewart to answer because he took exception to that role.

Mr Stewart: I cannot say that. I think it would be unfair for me to say that. All I can say is that negotiation and agreement at the top has no place with safety. Safety is a team effort in the enterprise including people, not including union representatives and management representatives. From that point of view, I say it is irrelevant. In our experience, if we look at one of our unionized plants and at one of our non-unionized plants as far as safety is concerned, they are identical—a dozen committees, all of which include workers, supervisors, clerical

people and managers in an undifferentiated fashion, and if we had entered into negotiation, I am sure our safety record would be worse. It works as a team to improve safety.

The Chair: We are out of time—if it is very quick, Mr Fleet.

Mr Fleet: If it is irrelevant—I think that was the word you used—why are you making an issue out of it? If it is irrelevant whether they are part of a union or not, then what is the problem?

Mr Stewart: The problem is that this super-agency is now going to have 50 per cent organized labour, with a different agenda, and presumably that kind of influence is going to be felt through all the presently successful safety associations.

Mr Fleet: I thought you just said that it did not matter, that the interest was the same. I have not heard in your answer how the interest of the workers is different.

Mr Stewart: That is not what I said. I said that negotiation is irrelevant to having a good safety record. A good safety record comes from a team approach in the workplace, with no differences between whether people are in the union or whether they are not.

The Chair: I would like to carry on the debate, but we must not. Thank you, Mrs Caldwell and gentlemen, for your presentation.

The next presentation is from the Ontario Provincial Council of Labour. Mr Herechuk, the president, is here. Gentlemen, we welcome you to the committee. I wonder if when you start out you would tell us what the Ontario Provincial Council of Labour is and what unions basically are members of your organization, for the members of the committee.

ONTARIO PROVINCIAL COUNCIL OF LABOUR

Mr Herechuk: The Ontario Provincial Council of Labour is the Ontario arm of the Canadian Federation of Labour. As such, we represent the 60,000 voices of the CFL in Ontario. Our affiliated unions are unions such as the International Brotherhood of Electrical Workers, sheet metal workers and operating engineers, among others.

Reg Conrad on the far right is the secretary-treasurer. I am president of the council and this is Bill Moore. We have the honour of having him work with us and present our brief for us today. Bill is an international representative with the IBEW, and as such is in charge of its safety program in Canada. We have asked him if he

would honour us with his presence today and he will be presenting the brief, after which we will make ourselves available for questions.

Mr Moore: Members of the committee, first I wish to take this opportunity to congratulate the Minister of Labour (Mr Phillips) and his predecessors for their commitment to expand the Occupational Health and Safety Act coverage to a larger workforce.

The introduction of Bill 208 was considered to be a progressive piece of legislation that met the needs of a large number of workers in Ontario. The Ontario Provincial Council of Labour of the Canadian Federation of Labour was committed to supporting the bill as originally proposed, with some fine-tuning. Needless to say, when there is a move by the government to implement changes to long-standing legislation there will be questions and concerns. Further questions and concerns arise when amendments are introduced that appear to weaken the original bill. With this thought in mind we, the members of the Ontario Provincial Council of Labour, wish to offer the following comments:

First, workplace partnership: Expanding coverage to offices and retail establishments is a plus, but still does not go far enough since the proposed legislation would leave a workplace with fewer than five people without a safety representative by legislation. This is a definite problem where there is a workplace without union representation. We realize the minister would still be able to appoint, if necessary, a safety representative in a small place, but particularly without union representation, how is this small group going to approach the Minister of Labour to do this without some sort of intimidation against them?

Education and training: Bill 208 proposes a new Workplace Health and Safety Agency. Questions arise from this proposal. (a) How will labour's representatives be chosen? (b) How will management's representatives be chosen? (c) How will the chairperson be chosen? There is much concern that the persons have already been selected for these positions and that there has not been an advertised recruitment for qualified people to apply.

The other question being asked is, who will certify safety committee members? We would strongly suggest that the safety associations in each sector be responsible for certifying. For instance, the Industrial Accident Prevention Association in the industrial sector has some very good programs in the public sector, in the electrical industry and also in the private sector.

The Electrical Utilities Safety Association of Ontario has very good training programs for certifying people. But there are a lot of questions that have not been answered yet.

Rights and responsibilities: When we speak of rights and authorities, are we also expanding liabilities? For instance, an employee who was injured who is going to collect his Workers' Compensation Board benefits cannot sue his or her employer, since he is receiving his WCB benefits. Is this new bill going to open the door for the worker to sue the safety representative and/or the bargaining agent? It is our feeling that the bill should completely absolve the workers' safety representative and the bargaining agent for any such legal actions.

The right to refuse dangerous work should not be limited to immediate danger to the worker. We should also include danger to a fellow worker or the public. I will point out that in the public sector, for example, the hydro commissions, there are many times where the public could be put at risk because of a worker's action or inaction. Hydro commission employees are working out on the streets every day, every week, every month, every year, and there are many precautions that must be taken so that the general public, children, do not come inadvertently into contact, which could kill them. It sounds dramatic but that is a fact of life in the electrical field.

1050

Enhanced accountability: To state that corporations take "all reasonable care" is pretty general. It should be emphatic that corporations are responsible to "ensure" that all work is carried out in compliance with the act. The present Occupational Health and Safety Act, under section 16, is very emphatic as to what the employer must do and what a supervisor must do on behalf of that employer—very emphatic.

Performance incentives: This is a very dangerous step to attempt. There are many cases that prove that employers will use some devious means to obtain safety awards and also to keep premiums down. There are many cases where employees are encouraged to do other work and not report accidents since they are being paid even though they are not doing their regular jobs. Then the employer's records would indicate there are no lost-time accidents. There have been many cases across this province where this has been proved.

Just as an aside to that, I do know from experience in the public sector that there are some employers who are given safety awards

even though a couple of months before that one of their employees was killed. But they still got their safety awards.

Workplace Health and Safety Agency: On the face of it, this seems like a good idea, but as stated earlier, where do these agency people come from and how are they selected? With all due respect to those making these decisions, let us not use this agency as an income supplement for retired business and/or labour people. It concerns this organization as to what is meant by "health and safety profession." Is this going to limit participation just to those who work for safety associations or is it also going to include people who are involved deeply in safety in this province?

Safety associations: What is meant by "workers employed in that sector"? Does this mean, for instance, that a person who is down in the trenches or up on a ladder or up a hydro pole must be part of the board of directors, or can a workers' representative in that sector be labour's part of the board of directors? Does a person have to be actually on the job every day to be part of a safety association's board of directors?

Right to refuse unsafe work activity: Again, the worker should have the right to refuse any work that places the worker, a co-worker or the public in any danger, either immediately or later. Hydro workers can be placed in danger as a result of work performed earlier by a co-worker, as can the general public. I will give you an example of that.

Just on Sunday night I received a phone call about a person, a hydro worker just west of Toronto, who went out to do some work, and because of some work that a co-worker had been told to do prior to that, this second worker ended up in the hospital for four days and off work for four weeks, simply because the first worker was ordered to do a certain task that placed the second worker in danger on down the road rather than immediately.

Construction sector: To place in the bill figures such as 50 workers for projects of six months is unrealistic, as is 20 workers for three months. Once a pool of certified safety members is established, every construction site, no matter how many workers are on the job or how costly and lengthy a project may be, should have a certified safety member. To place the numbers recommended by the minister would eliminate safety representatives on most of the construction sites in Ontario. I think over the past couple of years the accident rate on construction sites has really not been on the decrease.

To remove the requirement of a written health and safety policy from workplaces with fewer than five employees is telling a small business and its employees really that this business owner and his employees are second-class citizens and should not have the protection of the legislation.

Authority to stop work: This right should still remain intact as originally proposed. A worker or employer certified safety representative should have the right to stop unsafe work until the hazard is eliminated or at least, the very minimum, until there is proper protection taken to protect against the hazard.

In the event that a joint health and safety committee makes a recommendation, an employer should not have the right to disagree, since the employer has equal representation on the committee. Once again, we have seen that time and time again where the employer's representatives on a joint safety committee have sat down and said, "Yes, we think this should be done; it's got to be done," we turn around and go to the guy who signs the cheque and the guy who signs the cheque says it is too expensive. If he is going to have representatives on that committee, they should have the authority to act.

Powers to inspectors: To give the inspectorate broader powers is also a step in the right direction, but we must ensure that it is properly trained in all the various sectors it will be required to be involved in.

A month ago I attended a coroner's hearing where they had people investigating a construction accident who did not come out of the construction industry at all. They came out of the industrial sector. They did not know what they were talking about when they were down on the construction site, and they admitted to that. Yet, they are sent out to investigate these accidents.

Just in summary, as stated earlier, we feel that Bill 208 as originally proposed met the needs and concerns of the workers. To water it down with some of the proposed amendments would be a step back. We feel it is incumbent upon the government to ensure that all sectors are covered and represented. We further suggest that matters dealing with workers should be communicated to all central labour bodies in Ontario, not just to those that make the most noise. We wish to further state that any health and safety act is not worth anything unless the government is prepared to establish stringent regulations and enforce them vigorously and consistently.

Once again, we thank you for the opportunity to speak with you and we urge you to seriously

consider our comments and forward them to the minister.

Mr Herechuk: Can I just add a couple of comments to the end of that?

The Chair: Yes, by all means.

Mr Herechuk: There are a couple of things we would like to add to that just for your information. One of them goes back to education and training. We talk about education and training in the workplace and we talk about making a safer workplace for workers. The fact is, until we get the training of how to work safely into those who teach people to come into the workplace, the teachers and the education system at the primary and secondary levels, we will always have people working in unsafe manners. That is where the education and training has to start and it is not starting there right now.

When we talk to you about the construction sector, I wonder if you realize that if you look at the proposed amendments that the minister made, that would mean that you would exempt something in the area of about 95 per cent of the construction sites in Ontario from having a certified worker representative on them. You have to think about just how much the construction sector is affected by that.

Under the authority to stop work, we heard in a previous brief how it was felt that somebody should not have the authority. Yes, workers have the authority at present to stop work, but after that worker has said, "I will not do the job," management or the employer has every right to go to another worker and say, "Well, you do it," and not have done anything about making that job safer at that point in time. The only thing that employer has to do is inform him, "Oh, somebody said he wasn't going to work on this; he thought it was unsafe." We feel that is wrong and that is why you need the certified workers there in that place.

Beyond that, I would like to thank you. I just wanted to add those comments for you.

Mr Dietsch: In your brief you point out in the Workplace Health and Safety Agency the aspect of a supplemental for retired business or labour people. I am curious as to that comment, because many business people and many labour people are now looking at taking more leisure activities at an earlier age. From the labour field there are many people who are retiring after 30 years at young ages, in their early 50s, who have spent considerable time and experience and have a great deal of knowledge and wealth to add to the safety and health of workers. I guess I would like you to expand a little bit more. Do you see those

kinds of people as not being people who should be drawn on for their years of wealth in knowledge?

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Mr Moore: I have no problem with that. The thing that bothers me is that a lot of these people whom you are referring to have been out of the workforce for a good number of years. In this day and age—I see it every day, every week—the technology in the workplace is changing dramatically. The types of safety equipment and things like that on the job sites have changed dramatically, and these people do not know anything about it. What I am saying is, do not limit it to that, because it is a real concern.

I can write down a whole bunch of names and I will bet you that those names have already been approached as to the three or four people who are going to be on this agency. What it is amounting to is that it is going to be a retirement supplement, and the people may just have been out of the workforce for too long a period of time. They may have been out of the workforce for 15 years, have never seen a job site in 15 years, and now they are going to sit there in a safety agency and say what they are going to propose and what they are going to put forth as safety training and things like that.

Mr Dietsch: I look at individuals who have worked for years and years on the work sites of Ontario and have a great deal of knowledge. To limit the kinds of people whom you are looking at in drawing on that wealth of knowledge—I just have some concern with your bringing that kind of point, because you right away limit the draw on the kinds of people you are talking about.

I understand what you are saying in terms of someone being out of the workforce for 20 years, but my example was an individual who had just been out of the workforce, took early retirement and still has a considerable amount of knowledge to add to these things. I appreciate the fact that the workplace is changing and technology is changing and that we are becoming a world economy with global competitiveness, but I do not think we should limit the draw on that kind of experience, even from an individual like yourself, who I am sure could contribute in many ways.

Mr Moore: I do not want to see it limited to anybody. What I am saying is that we have not seen anything yet of where they have attempted to recruit anybody. I do not know, Ed might want to add to that.

Mr Herechuk: If I could add to that, our concern is that those people who would serve on

a central advisory agency should be those people who are most active in the area of health and safety. There is a myriad of people with experience who could be drawn on at subcommittee levels and into areas to help that agency, but that does not necessarily mean they should sit at that advisory committee level. We feel that the people who are currently involved and continue to be currently involved are the people most appropriate to be in that area, wherever those people are drawn from.

Mr Dietsch: So you would not want any retired people on there at all.

Mr Herechuk: We are not saying we would not want anybody on there. We would want the best people on there, who would keep most current with the situation.

Mr Dietsch: That is the point I want.

Mr Herechuk: A retired person, from our viewpoint, may not be the appropriate person to be there.

Mr Dietsch: That is the exact point I want. It is in relationship to the quality of people whom we are talking about serving on this agency. We are not talking of whether they are retired, whether they are working or what they are doing. We want quality people, and that is the important point.

Mr Moore: Draw from the big pool, not the little.

Mr Dietsch: Right. That is why I took exception to your limiting people with a whole host of knowledge.

Mr Moore: I thought that might get your attention.

Mr Dietsch: It certainly did.

The other point that got my attention was, I know of workplaces where there are agreements on performance incentives and safety awards, agreements by the union with the managements on the kinds of co-ordination they do. I wanted you to expand on the incentives. You say that many employers, through some devious means—and I guess I take exception to that; your quote could be right in some instances, but I would venture to guess that it is limited, because many of those are agreed to by the unions in those workplaces.

Mr Moore: I will take exception, because I deal daily particularly in the public sector, and there are, by reference, safety rules that are part of the regulations, and I do know. The statement I made was that some employers have somebody getting killed in June or May or March and they

get a safety award in July. That has to be ludicrous, and that happens.

Mr Carrothers: I am wondering if I can get your reaction to a point made by some employers who have come in, and actually the previous group made it as well. This was a concern in those plant situations that involve extremely complicated assembly lines or whatever processes and the implications of an individual making a decision to stop work and, by implication, stopping that whole assembly line.

The point made this morning was that the individual might not completely understand all of the implications and impacts of that. What intrigued me is that it went beyond the financial ones, that in fact shutting it down because of a step in one place on the line might even create safety concerns somewhere else on the line just by the nature of the process and that perhaps decisions involving those types of complicated workplaces might necessarily have to be more joint or consultative ones, because many people's viewpoints might have to be taken into account before it happens. Therefore they were concerned about the way the law might give an individual the right to decide that something had to stop and that all these things could then ensue. I wonder if you have any reaction to that viewpoint or anything you might add to that.

Mr Moore: My viewpoint is, and I think it has been proved, that since Bill 70 came out, we have not had a case of where it has been used in a frivolous manner. On any production line we do have a lot of electrical manufacturing, and the technology on some of these machines is unreal. But something on an assembly line that might be safe for me to do might be unsafe for you to do because of our physical makeup or a person's dexterity in a particular situation. I think that if a person is genuinely concerned for his safety, then that person should have the right to refuse to do that job. As I said in our brief, if something I do is going to endanger you, I should have the right to say, "No, I am not going to do it, because I may screw up Doug Carrothers." I do not think it is going to be used frivolously, and that is what this is for; it is to protect the individual worker.

Mr Carrothers: Certainly the question of frivolous use was brought up, but What sort of struck me was this question of, could the person understand what might be happening way down the plant line when the whole thing shuts down, and what are the balance points? The right of an individual to say, "Stop working at that position" because of something that might happen to him—personal physical makeup, your example

there. Someone else could come in. But it seems to me there might be balances. I mean, stopping the thing because of something going on in one place might be creating dangerous situations somewhere else. The point postulated, at least what struck me was, could an individual understand that, or should there not have to be some sort of consultative process with many people to make that decision, at least for those positions that might be so crucial to that very complicated assembly or whatever process?

Mr Moore: I think those situations would be discussed once the assembly is put into place, not after it has been going.

Mr Carrothers: I guess this decision that might stop it—I mean, some of them are very difficult to stop, from what I have seen. You do not just pull the plug out and it stops running. You get a pulp mill, and I gather once you stop it, all kinds of things can happen, and the way you stop it is very difficult. So it is not really a question of frivolous use. It is just, could an individual who would be empowered under this know enough without consulting? Therefore, should you not, perhaps in those circumstances at least, anyway, have some sort of consultative process among many people?

Mr Moore: Maybe, but with the proper training, I think every employee would be—

Mr Herechuk: I think it is important that you take that in context. What is proposed is to give very proper training to an onsite representative who is familiar with the work site, and that is not something that is taken lightly. You have health and safety committees now and you have health and safety representatives on there who are consulted by their workers right now. What you are talking about is giving very intensive training to certain persons who are onsite representatives who already know the workplace, who would go forward and do something in that area. Certainly, knowing the gravity of the situation, they are not going to do something in a frivolous manner in any way to endanger their own people.

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Mr Carrothers: No, it was not really frivolity that struck me. I can understand that someone knows this part of the process—I guess you know this part; you know all about what goes on there—but some of these things seem to get linked up in great, long chains. The implications seem to be that if one person understood the whole process, he should probably be the company president.

Mr Moore: I think the way your question is coming out is, should we worry about this person here injuring himself or his doing something that might injure somebody down the line?

Mr Carrothers: Yes, could a decision be taken that would solve a problem here but might actually cause a dangerous situation? How do you make sure? I just want to get your reaction to that.

Mr Herechuk: It is highly unlikely. If you were to make a decision to shut down a line, then you would inform management that it needs to be shut down and the appropriate precautions taken down the way to make sure nobody is hurt. I think anybody who was certified with that knowledge would be making sure that does not happen, because that is his job.

The Chair: Can we leave time for Mr Mackenzie with one question?

Mr Carrothers: Sure.

Mr Mackenzie: I think my colleague Mr Dietsch was doing his job when he took exception to your comment about employers using devious means. I just wish he had responded as strongly yesterday when the Niagara Construction Association told us that "a unilateral stop-work right as proposed is unnecessary, damaging, creates potential for manipulation by unscrupulous workers," which I thought was even more to the point.

I have one question for you.

Mr Dietsch: Is the question to me?

Mr Mackenzie: I just wish you had responded strongly, that is all.

Mr Dietsch: Hang around.

Mr Mackenzie: The summary indicates your position is that the amendments water down—some of us feel they do even more than that—and make this particular bill not acceptable, as against a potentially useful bill, as it stands, without the amendments. That is the position of your organization.

Mr Moore: We were prepared to support the original bill as it stood when it was first submitted.

Mr Mackenzie: I have only two questions on your presentation, which I think makes most of the arguments that are being made. One is on your statement, "We would strongly suggest the safety association in each sector be responsible for certifying." You mentioned the IAPA, among others. I am not sure that suggestion would meet with general approval in the labour movement and I am just wondering if that is

really the route you feel we should be going, having the IAPA do the safety training, or do you have that just as an option?

Mr Moore: I am saying that is an option. As I pointed out, the Electrical Utility Safety Association of Ontario in the electrical field is probably one of the better safety organizations for training and so on. They go out and do onsite training all over the place, all over the country, in fact, not just in Ontario.

Mr Mackenzie: The other point that caught my eye is—and you are right, we have done some checking—it appears that the 50 workers and six-month period eliminate about 95 per cent of all construction sites in Ontario. You have also rejected the 20 workers for three months. I do not disagree with what you are basing it on, that there should be even more improved coverage, but would that be acceptable as a first step? It was in the original bill.

Mr Moore: It would be a step in the right direction, yes.

Mr Herechuk: I think the point we have made is that we would find that far preferable than the 50 and six months, and we have come forward and stated that we would support the bill in that manner.

Mr Mackenzie: Okay. I wanted to be sure on that particular point.

The Chair: Thank you very much, gentlemen.

The next presentation is from the Ontario and Toronto Automobile Dealers Association. I extend a particular welcome to Bill Davis, who was in this assembly between 1981 and 1987.

Mr Davis: No, just 1985.

The Chair: From 1985 to 1987. Sorry about that.

Mr Davis: A funny thing happened on the way to the polls.

The Chair: Representing Scarborough Centre, I believe.

Mr Davis: I think you are right.

The Chair: We welcome you back to the Legislature, Bill. If you would proceed, the next half-hour is yours.

ONTARIO AND TORONTO AUTOMOBILE DEALERS ASSOCIATION

Mr Davis: I would like to begin my remarks by introducing my colleagues who are present with me this morning and then providing for you a capsulized perspective of our industry.

Shelly Schlueter is one of the principal owners of Schlueter Chevrolet Oldsmobile Ltd, located in the city of Waterloo, and is an active member of the government relations committee.

Herb Stein is the owner of Plaza Pontiac Buick Ltd., located here in the city of Toronto. He is also the vice-chairman of the joint committee of government relations for the Ontario and Toronto Automobile Dealers Association.

Our associations represent over 1,000 franchised new automobile dealers, both domestic and imported, located throughout Ontario. Members of our associations provide employment for some 50,000 people with a diversity of responsibility ranging from salespersons to accountants, clerical staff, auto technicians, auto body repairers and management personnel. As an industry we are proud of our record in providing a safe working environment for all our employees.

In 1989 the automobile dealers of Ontario remitted to the Ministry of Revenue some \$630 million in retail sales tax. This is in addition to the increasing business and property taxes and premiums for workers' compensation. Indeed, our industry, comprised of independent small business entrepreneurs, plays a vital and major role in maintaining the economic stability and high standard of living enjoyed by all Ontarians.

We welcome this opportunity to appear before you today to share with you our support for several sections of the proposed legislation contained in Bill 208, An Act to amend the Occupational Health and Safety Act, and to express our concerns with respect to other aspects of this proposed legislation. Our associations are supportive of, and commend the government for, its commitment to the enhancement of a safe and healthy environment for all persons in the workplaces of Ontario.

We concur that a continued and safe work environment can most appropriately be achieved through improved education and training programs for all employees and employers. The success of this initiative by the Ministry of Labour is most certainly dependent upon the creation of a co-operative model of a partnership involving all the players in the workplace, including the government of Ontario.

In view of various rumours, our associations maintain that it would be inappropriate and result in devastating negative reactions to the new program if once the new agency is established, the government then abandons the project by becoming a silent, at-arm's-length participant in the partnership. For this proposed partnership to be successful, all the players must be active

participants. We are confident that these rumours will not be actualized by the government and the amendments to the Occupational Health and Safety Act will result in a safer workplace environment.

We appreciate the response of the minister to our concerns and applaud his initiative in restructuring the board of directors of the Workplace Health and Safety Agency with the addition of a neutral party to the chair, representatives from the health and safety professions and the inclusion of a small business advisory committee.

Our associations are cognitive of the minister's sensitivity to the concerns raised by the small business community with respect to the proposed role and composition of the board of directors of the health and safety associations in the original bill. We commend the minister for his decision that will maintain an integral role for these safety associations as a primary agent for delivering the educational and training programs for the Workplace Health and Safety Agency.

It is our contention that sections of Bill 208 are not conducive to the ideal of equity within the partnership. In fact, a review of some of the amendments as they are now proposed will ultimately result in an adversarial position developing between employee and employer.

Many of our members operate dealerships which are representative of about 90 per cent of small businesses in Ontario employing 20 people or less. In these enterprises the business model is one of co-operation, with a family-type atmosphere, with a sharing of responsibility. The requirement of Bill 208 to employ a formal voting mechanism to select the employees' health and safety representative would seriously affect this fine-tuned model of conducting business.

We would urge the committee to seriously review this section and provide an alternative process for small businesses which would enable the workers and management, through consultation and consensus, to designate their health and safety representatives. A provision could be added that a formal process would be required in a small firm if the Ministry of Labour deemed it had ongoing problems.

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The proposed legislation conveys the responsibility for workplace health and safety and the implementation of the new legislation solely within the jurisdiction of the officers and directors of the corporation. Failure to fulfil this mandate carries an unprecedented penalty for

these corporations of \$500,000, an increase of 25 times the previous fine of \$25,000.

The proposed legislation is strongly silent with respect to the responsibility of employees to conform to and to practise the health and safety procedures recommended for the workplace. In fact, in some cases we know it is very difficult in our industry to form health and safety associations because the employees are not interested. We also know that in some cases we have employees in our paint spray booths who are not wearing all the proper equipment, and when they are informed of it, we are told they are not going to do it. We inform the inspectors from the Ministry of Labour and the response we get is, "Fire them." You are well aware that there is a shortage of skilled craftspeople and so that attitude is not sufficient.

If the ideal of responsible partnership is imperative for the success of the new agency and its programs, then we would respectfully suggest that the legislation should address the responsibility of the workers to comply with the health and safety legislation and to establish consequences for their failure to comply. For example, the consequences could be a loss of wages, a fine, a suspension, a notation on their file, appearance before some type of disciplinary commission or, in a severe situation, termination.

Our members are deeply concerned that the cost of doing business in this province for small businessmen and women is becoming prohibitive as business is constantly required by legislation to fund many of the new programs initiated by the government. It is apparent that the business community again will be expected to bear all the costs associated with implementing Bill 208 in Ontario.

Our associations strongly suggest that the day has arrived when government must accept its fair share of the financial costs in implementing its programs. We would recommend that the cost for training the certified workers should be funded by the new agency, with funding coming from the Workers' Compensation Board.

Our associations were pleased to see that the development of the training material and programs will be a joint co-operative effort between employers and employees. We welcome this new direction of the minister.

In view of the fact that 70 per cent of the workforce in Ontario is nonunionized, we would urge the committee to ensure that the legislation will provide representation for this group of

workers on the board of directors of the health and safety associations.

We would request the committee to clarify subsection 7(7c) of this bill with respect to the consequences that may be involved when an employer does not accept the recommendations of the health and safety representatives.

Our members have also expressed concern that subsection 8(8) will allow an uncertified employee to carry out the mandatory monthly inspections of the workplace. We would respectfully suggest that the certified members who have received the special training should do these monthly inspections.

Concern has been expressed with subsection 26(2) that requires an employer to notify a health and safety representative and trade union, if applicable, that a claim for an occupational illness has been filed with the WCB prior to the board making any determination of the claim.

We would agree this information should be filed with the Workplace Health and Safety Agency, and when the WCB has given its decision, the information would be released to the appropriate parties. It is also our understanding that this act will make it difficult for an employer to challenge the validity of each claim because access to employees' medical records will require their written consent, and this concerns us.

In your deliberations, we would hope that you would define the incentives available to businesses that establish a good record of safety in the workplace. Certainly, as the minister suggested, a reduction in WCB premiums would be a viable incentive.

If the committee is supportive of the intent of the bill to expand the workers' right to refuse dangerous work under subsection 23(2), then our associations believe it is imperative that the committee provides a clear, concise definition of "work activity" and establish provincial standards for activities which would be reasonably expected to injure the average worker; an example is lifting. These definitions and standards should not be the prerogative of the health and safety committees, since that would result in a patchwork of definitions and standards across the province.

Our associations oppose the recommendation of Bill 208 to grant a certified worker the power to direct an employer to stop work because the situation is dangerous to the wellbeing of the employee. We believe the present legislation is sufficient. However, if it is the government's intention to grant this power, then we would

recommend for your consideration that the decision to stop work be a joint decision of the certified members of the health and safety committee. This requirement of consensus on the part of the certified members will alleviate the fears that an individual could abuse this power.

In situations where consensus cannot be achieved, then the workers' representative should have the authority to issue a stop-work order with the understanding that if the order is later deemed by the Ministry of Labour officials to be frivolous or without merit, the person would then lose his certification.

We thank you for the opportunity to share our views on Bill 208. If there are any questions, my colleagues and I would be pleased to respond to them.

Mr Carrothers: Could you expand a bit on the comments you made on page 3 about a formal voting mechanism to select the employee health representative in a small business under 20 employees? You might add a little more detail as to how that might upset the process within a company. I understand there is quite a close working relationship and the formalities that are in a larger one are not there, but if I were the employer I would say to my employees, "You choose your person and then I will deal with him," and that seems to be what the legislation is saying. You might expand as to why you think it is going to upset the process in those smaller companies to have a formal voting mechanism.

Mr Stein: Perhaps I can expand on that. I think that would apply particularly to the very small organizations where it is a closely knit group. We know from past experience there is an aversion by the employees to serving on these kinds of committees. We feel that to structure a formal voting procedure, where there are nominations and the whole kind of program that is generally associated with that type of an election, would really change the tone of the relationship among these small businesses.

Generally, the relationship can be maintained just through a discussion of those who would be interested and thereby designated. This is really what we are primarily concerned with. It is a possible disruption to relationships within our businesses.

Mr Carrothers: I suppose the intent of those drafting, that are indicating the intention to have that sort of requirement, is to make sure that the rep does not get appointed, shall we say, by the employer, but that there is a mechanism where the individual represents the employees.

Mr Stein: Understandably.

Mr Carrothers: What you may be suggesting might be a problem is not that the employees are choosing the person but that they may not participate appropriately.

Mr Stein: The process is very unlike the normal activities within these small dealerships that we are trying to describe. Generally speaking, through some kind of consultation among employees, there would be a determination of who would be prepared to serve on such a committee. I guess that is one of the areas we hope would have a specific exemption for these very small businesses.

Mr Davis: I would suggest you would get the same kind of atmosphere if it was recommended in caucus, rather than the appointment of the person who is going to be the chair of a committee, that you vote for who that is going to be.

Mr Carrothers: That is what happens.

The Chair: Wrong caucus.

Mr Carrothers: In our caucus, it happens. It does not promote a problem in the caucus.

Mr Dietsch: It does not happen there?

Mr Davis: That is new.

What we are saying is that the kind of atmosphere they operate in is one in which if you then say the employees are going to have to make a selection, we believe you begin to create the kind of diversity that we would prefer not to have. If I understand the legislation correctly, the intent of the legislation is to ensure that you are going to have a certified worker who is representative of the employees and representative of the employer. We believe that can still be accomplished and still be valid by enabling smaller businesses the other alternative, in which it is through dialogue and consultation that they agree on the representatives.

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Mr Carrothers: I understand what you are pointing to in terms of the balance and so on. Would it be fair to say that you would be less adverse to the situation if perhaps the voting procedure were less formal? I am just wondering what alternative safeguards you could suggest for the problem of having an employer handpick someone who might not, shall we say, be as energetic as he might be in representing the employees.

Mr Davis: I think that is kind of an assumption that employers—I am speaking for our own

industry—are somehow less than honest and less than fair.

Mr Carrothers: No, I think it is an assumption that there might—

Mr Davis: No, I think that is a wrong assumption. I think what we are saying to you is that the kind of quality of workplace we have in the smaller dealerships is such that in the consultative process we would not envision a dealer walking into the back and saying, “I’m taking you and I’m not taking you.” They would come to that in a general consensus. We think that if it follows this process and does not happen, then that kind of atmosphere will change and it could develop into a much more adversarial position down the road. It is not going to change tomorrow; down the road it could. So we ask you to look at the other option.

Mr Mackenzie: Your organization, in a brief in many ways similar to the Canadian Manufacturers’ Association earlier today, rejects the bill without certain amendments in terms of the right to refuse, the neutral chairman and a number of other issues that have been proposed. If I can go back to basics, a question I would like to ask you is, what then do you say to the large number of people who are now questioning the consistent year after year figures?

I am talking about in this year alone, up to 30 November, 272 deaths, 339 claims for deaths—a handful of them have not yet been established—434,997 workers injured on the job; 1,820 workers every working day, 227 workers every working hour. This is from 1 January to 30 November 1989. There are the comments, for example, that the average fine paid by the employers—you also deal with the maximum fine—for the year 1987-88 was \$2,346. That is where they have in effect been found guilty of the violations.

There are 78 per cent of our workplaces that are in violation of the act or regulations. That is a survey by the Minister of Labour’s own advisory council. There are 30 to 40 per cent of the workplaces in Ontario that have designated substances and have not carried out an assessment or an implementation or control program to reduce the toxic exposures. Thirty-five per cent of joint committees had worker members selected by management; 60 per cent of those committees had a single chairperson and in 73 per cent of those cases the chairperson was from management.

The points go on and on and on, but to get back to the basics, there are some 400,000 injuries, 100 and some an hour, and 293 deaths. How do

you respond to that basic problem when you totally reject Bill 208?

Mr Davis: I think you have misunderstood. We did not reject Bill 208. What we rejected was certain sections of Bill 208 that we felt in one way did not develop the concept of partnership, and in other ways certainly put fears into some business concerns that it would become another platform that would become labour dominated. If you want to look at the stats, 70 per cent of the workers in this province are nonunionized.

In our own particular industry, we do have a fairly good record.

Mr Mackenzie: Do you feel you speak for those nonunionized workers better than the organized labour movement, for example?

Mr Davis: No, but I notice that in the bill you wish to propose, the nonunionized workers are not going to have any voice except through unionized workers. I think that is unfair. In our industry, most of our workers, except for the north, as you probably are aware, are not unionized workers. Who speaks for them?

Mr Mackenzie: When you raise your concerns about the unprecedented increase to \$500,000 in fines, 25 times the current \$25,000, which in fact is averaging about \$2,300 right now in terms of the actual fines, and then talk about the consequences being spelled out for workers’ failures, such as loss of wages, a fine, a suspension, a notation on their file, or in severe situations, terminations, what would be your penalty for—there are a dozen examples we could use.

One of the most outlandish, I guess, even provoked a call to me from Ford Motor Co to make sure I understood this firm had nothing to do with them. What would you do with the Libbey-Owens-Ford situation, where workers already sensitized for life refused to work in an isocyanate situation and were fired by the company? It took weeks and several visits by Ministry of Labour inspectors to get them back. What kind of penalty should the company get in a situation like that?

Mr Davis: Let’s look at the penalty structures in both cases. I certainly would not and I am sure my association would not be averse to some process, which I believe was supported by your party on Sunday shopping, where there is a minimum and a maximum. When there is no minimum, then we depend on the judicial system to make those determinations. I think that if you put a minimum penalty in for breaking certain

laws—you would have to define those in the Legislature—that would be fair and just.

Now let's look at the other side, the workers. How do we enforce the safety regulations? I want to talk about our industry because I cannot talk about the steelworkers or anybody else. How do we enforce those regulations, for example, when we have members who say they are not interested in serving on health and safety committees, and the workplace hazardous materials information system is a prime example.

What do we do for the employer when he goes into the back shop, and he has purchased all the equipment required for the spray booths, and he finds an individual in there with no equipment on who says, "I am not going to wear it," and we have a tremendous shortage in skilled labour? What we are saying is that if we really believe, and it is not just a platitude that we all would like to enunciate, that health and safety in the workplace and in this province is a partnership, it seems to me that the bill is required also to address, in some form, the responsibilities of the employer.

I think that it is your responsibility as a member of the Legislature, Mr Mackenzie, to make a determination on the size and substance of fines that should be levied against the various companies and individuals who fail to uphold those standards.

Mr Mackenzie: So you would have no difficulty with compulsion being used, whether it was management or workers if they were not complying. Your argument is that the reason we do not have some of these health and safety committees set up or working on some of those designated substances programs is that workers refuse to participate in it.

Mr Davis: That is what I am telling you.

Mr Mackenzie: That is what you are telling us.

Mr Davis: You've got it.

Mr Dietsch: Union or nonunion shops?

Mr Davis: They are nonunion shops. There may be some in the union ones, Mr Dietsch. I could not comment on that.

Mr Dietsch: I did not realize I was next and I wanted to follow up where Mr Mackenzie was going. The first question was, union or nonunion shops. I want to get in particular to employees who do not take advantage, if you will, of the employers' safety equipment that they have put forward. That is a very real concern.

I can understand that from a legislator's point of view, when you develop legislation like this,

you would hope that everyone would participate. However, I have difficulty in understanding how the employer, through his proper discipline mechanisms, cannot bring the employees to conform to the company policy, assuming that you buy safety equipment and have some kind of company policy to back it up with. If employees are not participating in what would be considered company policy, why would the regular form of discipline mechanism not kick in? Can you expand on that for me.

Mr Davis: Let me tell you what the Ministry of Labour told us to do with a mechanic—

Mr Dietsch: I would like to know first what the company did. Did the company not bring the employee in, sit him down, talk to him and go through a mechanism, or do you expect that the Ministry of Labour should come in and participate in the discipline?

Mr Davis: Of course, they did that, Mr Dietsch.

Mr Dietsch: And they still did not participate?

Mr Davis: They still refused.

Mr Dietsch: They still refused.

Mr Davis: They still refused. You walk through some of the shops and they are not wearing their safety glasses. You say: "You've got to wear your safety glasses. Management has its glasses on. You do not have your safety glasses on." "Well, I never wore them before and I'm not going to wear them now."

Mr Dietsch: That sounds to me like poor management if they cannot enforce what their company policy is. That is what you are telling me, and you want the government to come in and enforce it.

1140

Mr Davis: I did not say that. I said there should be something in the legislation that requires people to fulfil the obligations under the health and safety standards. What I am also saying is that when you have a highly skilled industry such as we have and there is a shortage in this country, you just cannot go ahead and say to your bodyman, "If you don't abide by these I'm going to fire you," because there is nobody to take his place.

Mr Dietsch: Now I understand. Now you are saying that because there is a shortage, they can do whatever they want in the workplace.

Mr Davis: That is right.

Mr Dietsch: And the employer is letting them do it.

Mr Davis: No, because there is nothing he can do, under any piece of legislation I am aware of, that will require that person to do it, other than what the Ministry of Labour says, and that is, "If he won't do it, fire him."

Mr Dietsch: You are saying that the company does not have any policy whereby it can bring an employee into check for discipline with respect to the—let's use an example. An employee is given a mask to work in a spray booth. That is standard equipment.

Mr Davis: That is right.

Mr Dietsch: The employee refuses to wear the mask in the spray booth. The company cannot enforce the policy it has that says the employee must wear the mask. That is what you are telling me.

Mr Davis: I am saying that in some cases the employee simply says, "I'm not going to wear the mask when I'm in there."

Mr Dietsch: And the company says, "Okay"?

Mr Davis: What does it do? There is no more bodyman.

Mr Dietsch: I am asking you. What does the company do?

Mr Davis: What would you do? You are the employer and I am your worker and I have my mask off.

Mr Dietsch: We would sit down and discuss it. Then we would go through a process of discipline.

Mr Davis: Then you come in tomorrow and find him with the mask off again.

Mr Dietsch: If through a long process of discipline the mask is not being worn, what do you think the alternative is?

Mr Davis: You are like the Ministry of Labour. The alternative is to fire the person.

Mr Dietsch: And you are saying no?

Mr Davis: What we are telling you is that in the legislation there should be some provincial kind of process when those employees—I am willing to bet it does not occur just in the auto industry—do not fulfil the kinds of standards that are expected to create a health and safety environment. It does not necessarily have to be loss of wages. It can simply be that there is a committee they have to go before, or it could be documentation in their file or it could be a small fine, but there has to be more behind that, especially in the skilled labour areas.

Mr Dietsch: I hear what you are saying. It is a very important point to make. I worked in

industry. I worked on the shop floor. My company had a policy where you wore safety glasses on the shop floor and you wore your safety boots on the shop floor. Employees who were caught without their safety glasses were first told to put their safety glasses on. If they did not abide by the instructions from their supervisor, they were given a letter. If they did not abide by the letter, they were given three days off. If they still did not abide by it after the three days off, they were given a further suspension of 30 days. If they did not abide after the 30 days, they were unemployed.

The fact is that it seems to me the example you are using is a very poor one—

Mr Davis: Let's back up for just a minute.

Mr Dietsch: —because that is a legitimate company.

Mr Davis: You are a dealer in an automobile—

Mr Mackenzie: The real question is the training.

Mr Davis: Right.

You have your own dealership, Mr Dietsch. You have one bodyman. You have business for 15 days to repair cars. You have now given your technician two letters and he still refuses.

Mr Dietsch: If that employee refuses to paint that car, what do you do? Do you call the Ministry of Labour in and say, "He's refusing to do his job"?

Mr Davis: They do not refuse to paint the job.

Mr Dietsch: Excuse me. Let's take it out of the health and safety context for a moment.

Mr Davis: No, because that is where the problem is, in the health and safety context. I submit to you that Mr Mackenzie is quite correct. There is a process of training and education.

Mr Mackenzie: There is also a process of responsibility. Do not try to misuse what I am saying. If you want to do that kind of training for workers—

Mr Davis: What I am saying to you is that in those cases there is also the whole process of economics that becomes part and parcel of it, and there is a tremendous shortage. You cannot send him home for three days because that means consumers do not have their work done for three days. When you are in small entrepreneurial businesses, that is the reality you deal with. It is not like on a shop floor, which I have been on too.

Mr Dietsch: I want to ask you one more question.

The Chair: Then we must—

Mr Dietsch: Yes, and I realize that, Mr Chairman.

I am an employee who works for you. A man has had his car in for a paint job for a month and another man brought his car in this week. I say to my employer: "No, I'm not going to paint that guy's car. I don't like that guy. I want to paint this car over here." What do you do?

Mr Davis: The logic of your argument befuddles me because that is not the issue we are dealing with.

Mr Dietsch: No, not at all. It is the issue of management of the company.

Mr Davis: No, that is not the issue I am dealing with.

Mr Dietsch: Thank you, Mr Chairman.

The Chair: Just for the interest of members, under the Occupational Health and Safety Act and its regulations, sections 13, 14 and 17 deal with responsibilities and section 29 deals with enforcement, for those people who wish to refer to the little book. Thank you very much. You have stimulated a lively debate and we appreciate that and we appreciate your presence here this morning.

Mr Davis: Thank you, Mr Chairman. Good to see you again.

The Chair: The final presentation of the morning is from the Toronto Transit Commission, Mr Wenning. Mr Wenning is the manager of safety and fire prevention. We welcome you to the committee. If you would introduce your colleague, we can proceed. Your brief has been distributed to members of the committee.

TORONTO TRANSIT COMMISSION

Mr Wenning: Thank you very much for the opportunity to appear before you this morning. My name is Paul Wenning and I am the manager of safety at the Toronto Transit Commission. Accompanying me this morning is John Honan who is the superintendent of safety.

As the chairman mentioned, I have made available copies of the TTC's complete brief that was approved by the commission in the fall of 1989 and was submitted to the Minister of Labour by letter in November 1989. The brief was in response to Bill 208 following first reading, and although that bill has now passed second reading, all our comments are still valid given the relatively minor changes that were introduced at second reading.

At the outset let me say that there are a number of constructive changes contained in Bill 208,

but there are some changes that we are sufficiently concerned with that we took the time to put together this brief. We did that because we felt that some of the proposed amendments are unnecessarily extreme in their nature and somewhat impractical or unworkable in the day-to-day working environment of a large and diverse organization such as the TTC.

The TTC employs a little over 10,000 people. The bulk of the employees who are known to the public are the uniformed operating employees, being the subway operators, the station collectors, the bus drivers. We also have a large number of behind-the-scenes maintenance workers who encompass virtually all the trades, running from janitors, mechanics, electricians and plumbers to welders. Their responsibility is to maintain the facilities in the vehicles we use to operate the service.

Both categories of employee can and do have lost-time injuries and we are very concerned about those injuries. We take them very seriously and we work hard at avoiding them. The concept of safety and the importance of safety is reflected in the TTC's corporate motto, which is "service, courtesy and safety." We have had a great deal of success with our safety program. I am happy to say that over the last 20 years or so we have won most of the safety awards that have been available in the transit industry in North America, almost exclusively.

Over the years we have shown that the existing measures in place through current health and safety legislation can and do work. I am referring to such things as the worker's right to refuse, requirements for workplace inspections and the practice of having regular joint health and safety meetings. There is always room for improvement, but we do not feel there are serious deficiencies that would warrant certain of the rather extreme measures proposed in Bill 208.

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While our brief attempts to express the TTC's view of these particular amendments that concern us, time this morning does not permit us to repeat them all now. Rather, we would like to focus on those amendments of most concern and of greatest potential impact to us. Those three areas are (1) the concept of issuing a stop-work order by a certified worker, (2) the expansion of the definition of work refusal and (3) response to joint committee recommendations. Those three are dealt with individually in the brief that you have.

First of all, stop-work orders: As I am sure you know, Bill 208 proposes that certified workers

would have the power to issue a stop-work order if they felt there was imminent danger to a worker. As I mentioned, we feel that there are now adequate systems in place to protect employees by means of the existing work refusal process, health and safety committee meetings and safety inspections. We have always been able to address health and safety concerns using the existing process without ever having to resort to such extreme measures. We have done that through the efforts of the safety representatives whom the union has made available, the supervisors on the floor and out in the system, our own safety department and, when necessary, the Minister of Labour.

We feel that good communications, problem-solving and proactive preventive measures are by far the preferred course of action, rather than granting *carte blanche* to stop work. With stop-work powers it would be all too easy to disrupt the orderly process of accident prevention and problem-solving by circumventing the supervisor's responsibility to address health and safety concerns and introducing a stop-work order without any prior consultation with management to correct the situation. If such powers are to be bestowed, then some form of joint responsibility should be established between union and management certified workers before any drastic action, such as the stop-work order, is given.

Furthermore, there is little, if any, recourse for the employer which may have fallen victim to an inappropriate use of the stop-work order, aside from an opportunity to register a complaint which might ultimately result in the decertification of the worker. If such powers are to be given to certified workers, then employers should have the appropriate legal recourse to reclaim losses incurred as a result of downtime and related costs due to perhaps frivolous or unnecessary work stoppages. In summary on that point, we do not see the need for such an extreme system.

Instead, a far better approach is one which is founded on ongoing communication between labour and management at the workplace to address specific safety concerns as they are identified or foreseen and then take the necessary corrective actions. If some sort of impasse results, and they do happen, the current work refusal process can be enacted at the worker's discretion, which clearly separates the worker from the perceived hazard immediately and makes possible Ministry of Labour involvement if necessary.

The second point that we would like to touch on this morning has to do with the proposed

expansion of the definition of work refusal. Bill 208 proposes to broaden the definition of the grounds on which a work refusal can happen to include perceived hazardous activities, such as lifting. While this concept may offer some benefits, unless properly defined, it could be very confusing and difficult to administer. This is because the grounds for a work refusal would become so much more subjective.

For instance, each person's ability to lift safely would depend significantly on his state of physical health or fitness. Theoretically, with two workers side by side, one might refuse to lift something relative to his perceived fitness level whereas the other might continue to perform the same duty. The confusion could compound in so far as the refusal could extend to work activity likely to endanger another worker. This is quite different from the existing legislation, which identifies a piece of equipment or the physical condition of the workplace as being the basis for a work refusal. That situation can be studied and addressed.

Without some form of acceptable standard, how can such individuals in the work activity refusal be examined consistently across the board? This is a very open-ended area that could and would lead to confusion, disruption and, no doubt, complications unless there is some interpretation or clarification of what constitutes a reasonable basis for refusal for work activities.

Other questions that come to mind, and arguably they are in the extreme, are, would there be specific guidelines that perhaps would set weight limits, for example? Who would make the judgement from a medical point of view whether the person was capable of undertaking the activity? How would the system deal with such issues as fear of heights, fear of darkness, claustrophobia? The main concern here is, this has the potential of being a good piece of legislation, but we need to avoid legislation that is impractical to implement in the field, because it is too general.

The third and final area that we are covering this morning is that of the company's response to joint health and safety committee recommendations. It is proposed that an employer respond in writing to any committee recommendations within 30 days of receiving them, with that response to contain an implementation timetable or reasons that the employer disagrees with any recommendations. This is potentially a positive proposal but one which requires qualification in order to be workable. The TTC's experience has been that many of the recommendations from

joint committees can be handled and should be handled expeditiously.

The TTC now endeavours to respond to joint committee recommendations by the next committee meeting, and these meetings happen on a monthly basis. However, some problems are more complicated and take time to solve. Therefore, it would not be possible in many cases to come up with a complete review of the problem and develop a complete timetable all within 30 days of its first being flagged by a committee. This simply would be an impossibility. Furthermore, depending on the urgency of the problem, money may not be available to implement the required solution as soon as we would all like to see it. Such matters as ventilation systems, structural modifications to buildings, purchase of new equipment or widespread retrofits to existing vehicles, in our case, could be major budget items. These would require engineering study and proper justification prior to proceeding. Therefore, the requirement for an implementation timetable within 30 days should be qualified by adding "where possible."

To conclude, I would like to make the point that a work refusal or a work stoppage at the TTC can have very adverse effects on providing transportation service to the public, in terms of both our operating the service on the street or on the subway at the time and maintaining the vehicles and the facilities to the extent that we need to run the service. The time required to respond to the disruption in service to the public is critical, and we are concerned with any measures that might increase the number of such disruptions unless they are absolutely necessary. The TTC is unique in that its business is to transport people in Metropolitan Toronto, and we are very concerned about any possibility of disrupting the service.

That concludes my remarks for this morning and I thank you for your attention. We hope that all of the points made in the brief will be considered during your review, and we would be happy to answer questions on what we have delivered now or any other of the points made in the brief.

Mr Mackenzie: I am just curious. On one of your last remarks, where you dealt with the impossibility sometimes of resolving a health and safety problem and suggested the addition of the words "where possible," who would define the words "where possible"?

Mr Wenning: Could you clarify that, please?

Mr Mackenzie: Could the workers decide where it was possible or not to carry out a specific safety measure? You say that it is sometimes impossible to deal with it in 30 days when a safety problem has been identified and you suggest one answer might be adding the words "where possible." I am simply asking who is going to define the words "where possible." We have seen this for a long time in a number of issues and contracts.

Mr Wenning: I can give you a real-life example of where we have a facility now where its ventilation is not what it should be. We recognize that and we have been working on a solution to it. I think we have been responsive to the concerns and we are trying. It is going to cost multimillions of dollars at this one particular garage facility and it is conceivable that it could spread across the entire system if it works.

To expect us to understand the magnitude of the problem, what is really causing the problem, to do the necessary engineering work, perhaps retain the necessary consultants to help us, all within 30 days and come out with a guaranteed timetable of when the money might be available next year to do the work—I just cannot see that happening in that example. However, there are a lot of less extreme examples where, in the TTC's case, we are looking at maybe moving a bus stop or changing a work procedure. Those things, if we can come to an agreement, can happen fairly quickly, or at least we can commit to them happening within one or two months.

Mr Mackenzie: I am just simply pointing out, particularly if it happens to be a question of money, the "where possible" addition simply means that the decision is going to be made by management every single time.

I am wondering if you can also tell us whether or not you have had, in specific health and safety matters, any abuse of the right to refuse as far as it currently exists.

Mr Wenning: I think we have had concerns that way. Most of them border on—and I am sure we are not unique in this—health and safety versus labour relations matters. It has been our feeling in some cases that the Occupational Health and Safety Act has been used as an opportunity to bring something to a head.

Mr Mackenzie: In health and safety issues and negotiations—I am not talking about that. I am talking about an individual right to refuse, where you have actual examples you can present to this committee.

Mr Wenning: Yes, it has happened.

Mr Mackenzie: It would be useful to have those presented to this committee then, if we can, Mr Chairman.

The Chair: I think what Mr Mackenzie is asking is whether it is possible to send us a summary or just a short description of the incidents involving work refusal. Right, Mr Mackenzie?

Mr Wenning: Well, that is somewhat tenuous because that is an underlying feeling that one might have and it might be confirmed through the intervention of the Ministry of Labour agreeing that the basis on which the refusal happened perhaps was not contained in the act or was not covered in the act, so therefore the refusal could not progress. We might be able to provide you with those types of examples. There are probably other examples where the refusal continued, and perhaps we were not completely convinced in our own minds that it was purely and completely founded on health and safety, but it did get resolved in that context and it is behind us now.

Mr Mackenzie: Just if I can clarify it for a bit, I am looking for specific examples. Stelco Inc, before us a couple of days ago, had reasons to

oppose this bill, but its president stated uncategorically that it has no evidence of any abuse of the right to refuse, and it has a very active labour relations scene and safety and health committees throughout that plant. I am trying to find, which we have not had yet—we have had allusions to—actual examples of an abuse of the right to refuse as a result of a specific safety situation.

Mr Wenning: I can certainly go back and confer, and I will attempt to do that.

Mr Mackenzie: It would be interesting if we could have that.

The Chair: Just so you know, all of the specific recommendations that people make to the committee affecting the bill are being kept track of and will be laid before the committee in their entirety when we get to the part of the process when we do clause-by-clause and consider amendments. So we appreciate those specific proposals you have made.

That concludes the presentations for the morning. We commence again this afternoon at 2 pm sharp, we hope. We are adjourned until then.

The committee recessed at 1205.

AFTERNOON SITTING

The committee resumed at 1409 in committee room 1.

The Chair: The standing committee on resources development will come to order as we continue the public hearings process on Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

Our first presentation this afternoon is from the Personnel Association of Ontario. Brian Smeenk, I believe, is the spokesperson. We welcome you to the committee. I hope you will introduce your colleagues, and we can proceed for the next half-hour.

PERSONNEL ASSOCIATION OF ONTARIO

Mr Smeenk: With me to my immediate right is Michael Ternovan. To my immediate left is Don Adams and beside him Mary Smith. Also here today on behalf of the Personnel Association of Ontario are Mary Beth Currie, behind us and to my left, and Glenn Stansfield. The makeup of our Bill 208 task force you will find on the last page of our brief.

I would like to thank the committee for this opportunity to make this presentation this afternoon. I will follow the order of our comments in our brief in making our presentation this afternoon.

First of all, you may be wondering who we are because our association has not been a frequent party appearing before committees here, but the personnel association has been in existence since 1936, speaking as a unified voice of human resources management professional people. We have more than 6,000 members across Ontario, covering a broad spectrum of persons involved in human resources, including senior executives and managers as well as consultants and lawyers who are active in the human resources, employment and personnel fields.

Many of our members are involved in the administration of occupational health and safety, either directly or as managers with overall responsibility for those with direct responsibility for health and safety, so we feel that we bring very much hands-on experience with the administration of this legislation to our analysis of the bill.

With respect to some general comments regarding Bill 208, we wish to emphasize our support for the general direction and underlying purposes of the bill, which were identified by the Ministry of Labour in its background paper last

January 1989, those more particularly being the improvement of participation of all those in the workplace in improving health and safety, the enhancement of education and training in this area and ensuring effective authority in the workplace for the protection of health and safety. Important from the employer's perspective is the responsible use of authority.

If I could make an aside here, I wish to emphasize that we speak not as an employers' group representing, say, manufacturers or any industrial sector, but as a professional group, as a group of individuals who administer this legislation from day to day and who are concerned about health and safety and about seeing the process work effectively.

We certainly support those general purposes of the legislation, but we have some serious concerns about the specific measures, or at least some of the specific measures, in the bill. In analysing, we use the three criteria we have outlined on page 5 of our brief. First, would the proposal in question truly enhance health and safety? Second, is it practical and workable? Third, is it fair to all the participants in the process? We respectfully suggest that these are appropriate criteria for this committee to have regard for in your analysis of the bill as well.

Our first area of concern is with respect to the certification of health and safety representatives. Our recommendation in this area is that the proposed scheme of having one certified worker representative and one certified management representative on each joint committee should be replaced with an enhanced program of more broadly based education and training.

Let me tell you our rationale for that suggestion. We feel the present bill is a fundamentally good piece of legislation. That is not to say it cannot be improved, but we think it is a good law. Why is it a good law? It is a good law because it puts responsibility for health and safety on everybody in the workplace, not only on the big bosses, not only on the experts, the architects and the engineers, but also on the first-level supervisors and second-level supervisors and on the workers. In short, it makes safety everybody's responsibility.

As people involved in the administration of health and safety and as people involved in trying to ensure health and safety in the workplace, we feel that you can only protect the health and safety of workers if everybody is involved in that

process. That brings us to the question, would this scheme of two representatives in each workplace being certified enhance workers' safety? We have come to the conclusion that it is more likely to have a negative rather than a positive effect.

The reason we say this is that instead of enhancing the education and training of everyone in the workplace, what it does is really create an élite small group. You would have an élite two people in each workplace who are certified representatives. Instead of being broadened and instead of enhancing the responsibility of everybody in the workplace, you are now really narrowing the group that you are making primarily responsible for health and safety.

We feel there would be a tendency on the part of workers as well as on the part of lower-level managers simply to leave health and safety concerns to these supposed experts, to the certified representatives, and to think to themselves or say: "The certified representatives have looked at it; it must be okay. I do not need to worry about it."

What is more, we need to remember that with all this training we would end up with only one certified management representative and one certified labour representative in every workplace, so a very small group is getting this enhanced training.

This brings us to our second concern, is the proposal workable and practical? In this regard it needs to be remembered that according to the ministry there will be 50,000 joint committees across the province and it admits that the training of all the representatives would be a major undertaking involving training for as many as 200,000 people. We have a concern that this simply is not practical.

First, the great number of people who would require training would be, I believe, considerably more than the total number of university students in this province.

Second is turnover and attrition. What happens when the certified workers' representative does not want to do that job any more? Is there then a six-month gap until the next person gets trained? What is the employer supposed to do and what are the workers supposed to do when they do not have a certified workers' representative in the plant? What happens when you have gone through two or three of these people and they say to their friends and to the employer: "We are not doing this any more. We are getting heat from both sides. We cannot please management and we cannot please our fellow workers. Forget it.

We do not want it"? What do you do when you cannot get anybody?

The whole proposal is based on an assumption that there always will be a certified workers' representative there. Experience tells us, many of our members who work with unionized people, that it is very hard to get people to volunteer for these positions. We see a real problem in the practicality of the proposal.

The third concern is that these individuals who are to be given very substantial powers under the bill in our view should be a "competent person" as defined by the Occupational Health and Safety Act, section 1, paragraph 2. Supervisors must be competent persons under the bill, but if you only have one certified workers' representative on every joint health and safety committee, is it realistic to expect that that person will be a "competent person" throughout the workplace?

The best example I can offer you is from a board of education where one of my colleagues is responsible for health and safety. In a large board of education you will have various skilled trades, electricians, carpenters, plumbers and other skilled trades. You will have stationary engineers perhaps or people competent in cooling and heating technology, but the bulk of the workforce will be custodial and janitorial employees on the nonteaching side, and of course teachers.

It is just not realistic to expect that any one person on a joint health and safety committee at a board of education would be a competent person to judge health and safety concerns as they relate to skilled trades and scientific laboratories, for example, in the schools and so on. We are giving this very serious set of powers to people who are unlikely to be competent persons as defined by the legislation and we are very concerned about that.

1420

Next, as outlined on page 8 of our brief, is the question of whether this is the most effective way to enhance health and safety education in Ontario. We note that the approximately \$46 million that is now going from Workers' Compensation Board assessments to the various associations is to go to the new agency and the associations. It would appear that the bulk of these funds, at least in the foreseeable future, would be needed to undertake this massive training effort of 200,000 people or so a year, yet the result would still just be two certified representatives in every workplace, give or take.

In short, we question whether the proposal to certify two people in every workplace is a cost-effective way of enhancing health and safety

education across the province. It is therefore our recommendation that this money would be better spent on broad-based education directed at all workers and supervisors in the workplace so that safety can really be everybody's responsibility.

That then brings us to section 23. On page 9 of our brief we outline our recommendations dealing with the certified representatives' stop-work orders. We have made three recommendations here: first, that the existing individual right to refuse unsafe work should be maintained, with an amendment to clarify that employers and ministry inspectors can deal with collective work refusals on a collective basis rather than individually; second, we propose the deletion of section 23 from the bill; third, we support the minister's suggestion in his speech and the papers that came with it at the time of second reading of the bill to somehow enhance the joint responsibility system in this area.

In this regard we wish to recognize a few of what we feel to be truisms in this area: first, that the vast majority of employers are conscientious, certainly in our experience, in trying to ensure that their employees work in a safe environment; second, that most workplaces and workplace equipment is designed by experts such as architects and engineers; third, that a plant-wide or large group work stoppage can be an extremely costly matter to an employer. Regardless of the size of the employer, if your whole operation shuts down, it can hurt you badly.

We feel that the current individual right to refuse work provides excellent protection. An individual has the right to be wrong so long as his view at the first stage is honestly held and we feel the current legislation in this area has worked well.

There have been problems in particular with mass work refusals, partly because the act is unclear about how you deal with those. Do you need to inspect each individual worker's concerns in a mass refusal situation or not? We feel that can be dealt with through our first recommendation in this area by allowing collective refusals to be dealt with as a single incident.

Second, arising from our concern about certified worker representatives not being competent persons, we submit that an employer should not be obligated to stop work at a worker representative's direction where its own experts, who may have very recently inspected the situation, feel that the work is safe. We do not feel that a certified workers' representative, who may have only a few weeks' training in the health and safety field, should be able to override the

informed opinion of an expert unless and until a ministry inspector says the employer's experts are wrong.

We wish to note also, as we do at page 11 of our brief, that the McKenzie-Laskin report in 1987 suggested that even ministry inspectors should use their stop-work powers very sparingly. They made that suggestion having regard for the grave consequences of those orders and because of their recognition that even ministry inspectors have limited training and knowledge in many of the industries into which they are thrust. We submit that it is even more inappropriate to give such serious powers to a worker representative simply on the basis of having taken a short training course, keeping in mind that individual workers will still have the right to refuse work.

We also highlight at page 12 of our brief that there is no real safeguard against abuse of this stop-work power, and if it is to be maintained, our recommendation is that strong sanctions for abuse of the power be included in the bill, such as civil liability or the power to prosecute where the stop-work power has been abused and used in a negligent or bad faith manner.

Finally in this area, we emphasize the point that joint co-operation and the internal responsibility system under the bill really are damaged, as the minister said in his speech at second reading, or suggested at least, by this system of certified workers' representatives and the stop-work power. We feel everything that can be done should be done to enhance co-operation, joint action and responsibility throughout the workplace, rather than antagonism.

Moving on then to the third area of concern, starting on page 14 of our brief we make a recommendation regarding clause 14(2)(j) and the provision of reports. Our recommendation is that the bill should define any report so as to exclude internal management memoranda, proposals or statements of concern, and we suggest some wording for the section on provision of reports.

Once again in this area, we do not disagree with the purpose of this part of the bill, which we understand to be the enhancement of co-operation and the level of knowledge throughout the workplace regarding safety hazards. That is a suitable objective. But we are concerned that the bill as drafted could actually have a negative effect on the flow of information and on some managers' willingness to put into writing their concerns or proposals which might improve health and safety in the workplace.

Any report could include internal memoranda which normally one manager might write to his superior outlining some concerns or outlining some recommendations that in his view would have a positive effect on working conditions. These are what you might call management musings, if you like. We feel there would be a real disincentive on managers writing these kinds of memos, putting these kinds of concerns into writing, if they knew that this kind of memorandum or report would necessarily go to the joint health and safety committee. We feel that the bill should clearly exclude these kinds of internal memoranda.

1430

I will skip over, because of time, our comments about the Workplace Health and Safety Agency except to say that we feel very strongly, given that many of our members are nonunion organizations, that nonunion employees should not be disfranchised from representation in both the safety associations as well as the provincial agency. We do not agree with the concerns that there is no practical way of doing it. We feel that the safety associations can easily find nonunion employees to sit on their boards. What is more, once that is done, we feel that they will form a very good feeder system to find nonunion employees to sit on the provincial agency.

Moving then to testing obligations, which we deal with at page 19 of our brief, our recommendation is that if an inspector requires an employer to have tests conducted at his expense by an outside expert, as the bill suggests may now happen, and if on an appeal such testing is found to have been unnecessary or unreasonable, the ministry should reimburse the employer for the expenses involved.

Our rationale for that is that the new bill would allow for the inspector to order tests at the employer's expense by an outside expert and, further, to order the stoppage of the use of the equipment or machinery pending that testing. That can be extremely onerous. The employer can appeal that order, but it is quite rare for the ministry to agree to stay the order pending the appeal. The problem we see is that, upon appeal, the employer can be totally vindicated; the order can be overturned. In the meantime, they will have spent the money on the expert's report and the equipment may have been out of commission for a substantial period. To be fair to employers, we recommend that in order to ensure responsible order making, if an employer not only succeeds in the appeal but if the director of

appeals finds that the original order was unreasonably made, the employer should be reimbursed by the ministry for the costs incurred.

Next, starting at the bottom of page 20, we deal with reprisal protection. Our recommendation here is that this section should be amended to clarify that reprisal protection is not being extended to those found to have given false evidence or those who make slanderous or spurious allegations in any proceeding under the act. We make this recommendation because the bill would extend protection against reprisals to those who testify in proceedings under the act or in an inquest under the Coroners Act. Again, in principle, we have no objection to the main thrust of that, but we do submit that it should be made clear that that kind of protection does not extend to those who lie or slander their employers. An employee should not have absolute immunity from the natural legal consequences of his misconduct where he has been wilfully malicious only because the malicious comments were made in a proceeding under this bill.

Next, in the medical surveillance area starting on page 22, we make two recommendations. One is that in cases where the act or regulations require an employer to maintain a medical surveillance program, employees should be required to participate in such programs; second, that the examining physician for such a program should not be a matter of individual choice. If the workers' representatives do not want the employer to designate the doctor, we recommend that the doctor should be designated by the joint committee and that the doctor should, if available, be one who has been identified by the ministry, if not an outside agency, as being competent with respect to occupational medicine. The reasons for these two recommendations are as follows.

First, if an employer is to be required to have a medical surveillance program, and presumably that requirement would be imposed on sound scientific or medical grounds where the evidence is that a medical surveillance program will help to identify hazards in the workplace or health problems with the workers, then surely the requirements for employers, on the one hand, and employees, on the other hand, have to be coextensive. If it is determined that an employer should pay for such a program because the workers need that protection, then surely the individual employees should not be allowed to opt out.

We are concerned that if workers who participate in the program attend at different

physicians or opt out, symptoms common to all workers which might disclose a workplace hazard may be overlooked. Moreover, they would be overlooked by an individual examining physician who would fail to note any trends in the workplace because he does not see the whole, broad picture. We believe that the health of workers is not protected by voluntary participation in medical surveillance programs, and if all workers are not examined, potentially those industrial diseases for which the medical surveillance program was instituted will not be identified.

Finally, with respect to our oral comments, I will just deal with the definition of "work activity." Our recommendation here is that the definition of work activity should be limited to activity which is likely to result in immediate harm or disability to the worker or another worker. We support the right to refuse work which is likely to endanger a worker, but we echo the concern that many others have voiced, that the term "work activity" is simply too vague and may be invoked to refuse work for which there is no immediate potential risk or harm. Even normal, day-to-day activities which most of us would not consider to be of immediate harm, such as sitting constantly at a desk or, as I am sure the members all can identify with, reading papers constantly can put a strain on your eyes, if not your back or other parts of the body. But these are not the kinds of immediate concerns that one would expect the right to refuse work to relate to. We feel that those kinds of work activity, like other ergonomic concerns, should be dealt with by the joint health and safety committee and that the work activity definition should therefore be limited to those activities which would result in imminent or immediate harm to the worker or another.

We have dealt with in our brief a series of several recommendations in the reimbursement area. I will just generalize by saying that our concern is that the reimbursement obligations being placed on an employer or rights given to employees in this area for pay at regular or premium rates for many of the activities under this legislation where the employer will have no control over when those activities are being carried out by the worker invite abuse. They invite workers really to do as many of these things on premium time as they can. That, I know, is not the intention, but that is a practical, everyday concern that our members who work with the legislation day to day do have. I will leave you to read those.

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Those are all of the comments that we will make orally at this time, subject to any questions that the members may have.

The Chair: Thank you very much for a very comprehensive brief and a very specific one as it applies to the bill. We have been quite rigorous in adhering to the 30-minute rule so that we keep things under control, so I just thank you very much for your presentation. We appreciate it.

Mr Smeenk: Thank you.

Mr Dietsch: They have used their 30 minutes?

The Chair: Yes.

The next presentation is from the Ontario English Catholic Teachers' Association. I am not sure who the spokesperson is, but I assume you will introduce yourself and your colleagues, and we can proceed for the next 30 minutes.

ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION

Ms Lennon: Thank you very much. My name is Eileen Lennon and I am president of the Ontario English Catholic Teachers' Association. To my immediate right is Michael Coté, the first vice-president; on my left is Richard Blair, our legal counsel, and at the end is Father Frank Kavanagh, our general secretary. We also have, sitting behind me to my left, Vicki Hievert-Hannah and Barbara Grizzle from our secretariat staff.

We are very happy to have this opportunity to present on Bill 208. Just to indicate who we are, we represent 20,000 men and women who teach in the separate schools of Ontario in junior kindergarten through grade 12 OAC. I will take you through the brief—it is fairly brief—and be happy to answer questions at the end.

OECTA has an ongoing commitment to ensuring that workers in Ontario have a guarantee that their workplaces are free from hazard and that they can feel confident in the knowledge that they are protected by effective and enforceable legislation concerning workplace safety. OECTA's review of Bill 208 discloses to us two major areas of concern. Of particular concern in these areas is the announced intention of the government to introduce amendments to the bill which would seriously reduce its effectiveness. The OECTA review and recommendations are as follows.

The first area I would like to discuss is the right to refuse unsafe work. Bill 208, as drafted, proposes to extend the right to refuse to do particular work to include situations where the

work activity the worker is required to perform is likely to endanger the worker or another worker. The most commonly cited example of such an activity is the lifting of a particularly heavy load, which could result in back or other injury.

This revision to the original Occupational Health and Safety Act is an important positive step. Unfortunately, proposed amendments to Bill 208 will limit the application of this right to refuse to current or immediate dangers only, excluding so-called ergonomic problems which may lead to long-term damage, such as repetitive strain injury induced by repetitive motions. Instead, such ergonomic problems are to become the subject of scrutiny by workplace health and safety committees.

Increasing numbers of serious and debilitating conditions are attributed to repetitive strain injuries in a growing number of occupations. The cause of many of these conditions is no longer controversial but rather clearly traceable to workplace hazards which can be remedied by proper equipment or furnishings.

By proposing to exclude these problems from the application of the right to refuse unsafe work activity, and to relegate them instead to the domain of health and safety committees in the absence of specific effective regulations aimed at their reduction, the government's proposed changes to Bill 208 represent an unfortunate qualification on an important right granted in the original amendments.

OECTA strongly recommends that a broad right to refuse unsafe work activity be retained and that the right to refuse unsafe work activity not be limited as proposed by the government in its proposed changes to Bill 208.

Bill 208 also perpetuates an unfair and discriminatory application in the right to refuse unsafe work. Many public sector workers, including members of police forces, firefighters and all employees of correctional facilities, are expressly excluded from the right to refuse to perform unsafe work. This represents one of the broadest exclusions from this important right in any jurisdiction in Canada. Bill 208 does nothing to address this inequality.

It is therefore OECTA's recommendation that Bill 208 be amended to reflect an expanded right to refuse unsafe work which, in appropriate circumstances, may include police, firefighters and employees in correctional facilities.

On the issue of authority to stop work, a central and critically important aspect of Bill 208, as originally drafted, is the right of a certified member of the health and safety

committee of a workplace to direct the employer to stop work or to stop the use of any part of the workplace or equipment where there is a contravention of the act or regulations that poses a hazard which, if it continues, will cause serious risk to a worker. The provision is important in ensuring that there is effective, immediate response to particular dangerous situations in the workplace.

The stop-work provision has been substantially modified and diluted in the proposed amendments to Bill 208. If changed as proposed, the stop-work provision will require agreement between certified worker and employer representatives, except in those workplaces already identified as having poor health and safety records. In many cases, agreement will be impossible, notwithstanding the existence of serious risk to workers in the workplace. I would also point out that it does not specify how a workplace would get identified as having a bad record. Is it two charges, 20 charges or 200? Moreover, if unilateral stop-work orders are available only in workplaces with poor records, a tremendous incentive for employers to avoid reporting accidents and injuries will arise.

It is important that in cases where employees are prevented from work due to shutdown for legitimate health and safety reasons, no worker would be financially penalized. Bill 208 does not provide assurance that workers will be fully paid for the period of the shutdown.

OECTA therefore recommends that:

The authority-to-stop-work provision in Bill 208 be maintained.

There should be no amendments, such as those proposed by the Minister of Labour (Mr Phillips), which would dilute the effect of the authority of a certified member of a workplace health and safety committee to direct the stoppage of work in cases of serious risk to workers.

Bill 208 be amended to ensure all workers full pay in cases of shutdown for legitimate health and safety reasons.

Of equally great concern are proposals to limit the certification of health and safety representatives and the authority to direct a stop-work in the construction sector to workplaces involving 50 or more employees and a project of more than six months' duration. This proposed restriction serves to remove important protections from workers in smaller, shorter projects. These are frequently the site of serious workplace hazards.

OECTA therefore recommends that the proposed restriction on the authority to stop work

and the certification of health and safety representatives be rejected.

In conclusion, safety in the workplace is of paramount importance to all workers in every sector of the workforce. The right to pursue one's livelihood in the confidence that effective steps are available where serious safety hazards exist is a right to which all workers should have a clear entitlement. Bill 208 takes some positive steps towards the realization of this fundamental right, and OECTA believes that the preservation and equal application of some of the bill's basic reforms is important in the realization of a truly safe working environment.

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I would like to read into the record our recommendations. The Ontario English Catholic Teachers' Association recommends:

1. That a broad right to refuse unsafe work activity be retained and that the right to refuse unsafe work activity not be limited as proposed by the government in its proposed changes to Bill 208.

2. That Bill 208 be amended to reflect an expanded right to refuse unsafe work which in appropriate circumstances may include police, firefighters and employees in correctional facilities.

3. That the authority-to-stop-work provision in Bill 208 be maintained.

4. That there be no amendments, such as those proposed by the Minister of Labour, which would dilute the effect of the authority of a certified member of a workplace health and safety committee to stop work in cases of serious risk to workers.

5. That Bill 208 be amended to ensure all workers full pay in cases of shutdown for legitimate health and safety reasons.

6. That the proposed restriction on the authority to stop work and the certification of health and safety representatives be rejected.

That is our brief and we would be happy to answer any questions you might have.

The Chair: Thank you very much. Am I right that teachers are not covered by the Occupational Health and Safety Act?

Ms Lennon: No. They are covered under the Occupational Health and Safety Act and have been since 1984, I believe.

The Chair: Including the right to refuse?

Ms Lennon: Yes.

Mr Cureatz: Could I have a supplementary on that which would cover my brief question?

The Chair: Yes.

Mr Cureatz: My colleague Mr Mackenzie of the New Democratic Party, who is much more knowledgeable about labour issues than I am or will ever hope to be, has asked a question a number of times, and I am curious. In the line of the chairman's question, are you aware of any situation of significance where since 1984 you have had a stop-work issue in process?

Ms Lennon: No. We do not know of any place where there has been a stop-work. There have been a couple of instances where there were safety inspections called for, principally involving the construction of new school sites, which were not completed but which had the students in attendance and the teachers on the job.

Mr Cureatz: But not in relation to the teaching area?

Ms Lennon: Not specifically that I can think of in our association.

Mr Mackenzie: Your organization represents, as you say, some 29,000 teachers in Ontario. Just prior to your presentation, there was a presentation—we did not have time to ask any questions—by the Personnel Association of Ontario, which rejects specifically and totally every one of the effective recommendations you have made.

Ms Lennon: We noticed that.

Mr Mackenzie: The same kind of presentations came from the Toronto Transit Commission and from the Canadian Manufacturers' Association earlier today. Also, they were all supportive of the amendments the minister wants to move, which to many of us means the gutting of this particular piece of legislation.

I guess my question is a general one. Do you feel that your 29,000 members should have as much input on this bill and as much influence with the members of this committee as do these other organizations that are obviously already on side with the changes that are being suggested?

Ms Lennon: We certainly feel that the voices of our 29,000 members should be heard. If we did not believe that, we would not be here. We are confident that the committee will take our recommendations under the same kind of consideration that it does those of the other groups you mentioned.

We operate from the philosophy that if there are to be errors, you should always err on the side of safety. It is a little late to have an inquiry after there has been a death or a serious injury. It is better to have the regulations set on the side of safety rather than on the side of saving money.

Mr Mackenzie: If we listened to some, not all, of the further recommendations made by some of these groups, we would not get the chance to prevent a death in many particular situations in the workplace.

The other question I want to ask is, because I think this bill is that important, will your people be monitoring what happens with respect to this legislation in this province and with the amendments that have been supported by one group or opposed by one group and also taking a look at just exactly how the final votes come down in terms of the legislation?

Ms Lennon: We tend to pay fairly close attention to what the government does on all legislation that affects our members. We do have a member of staff who spends a fair amount of time observing Queen's Park and following bills. We also have a member of staff who is responsible for workers' health and safety and monitoring that legislation. So we will be paying close attention.

Mr Mackenzie: I know the power of some of the groups that have appeared before us, and they may legitimately hold the views they do and they certainly will be broadcast. I just want to be sure that the other side of it is reported as fully in terms of what members in this House do when it comes to actually dealing clause by clause with this legislation.

Ms Lennon: I should make you aware that we have a press release we have issued today and it is available here. We hope it will be picked up.

Mr Dietsch: I suppose it creates some difficulties when people have differences of opinion with some of the viewpoints of some of the presenters today and try to, I guess, insinuate that you should monitor me closely as an individual on this committee. Quite frankly, I appreciate the fact that you would do that.

I wanted more particularly to look at one of your recommendations and compliment you on branching out past the needs of the group that you represent in terms of the teachers. When we look at your second recommendation on expanding the right to refuse unsafe work for police and firefighters, it creates an air of concern on everyone's part.

Perhaps you could outline for me and for the benefit of the committee members who are sincere and carry an open mind on this piece of legislation, unlike others who perhaps have already formulated an opinion, how you would see those kinds of circumstances being defined. Is there a safe fire? Those are the kinds of things that concern me in terms of bringing groups with

the kind of broad recommendation without the more definitive suggestion for the benefit of the committee.

Ms Lennon: I am really glad that you asked that question because I was hoping that we would get a chance to expand upon that.

Mr Dietsch: Now you have got it.

Ms Lennon: I am going to begin the answer and then I am going to ask Mr Blair to add to it.

I think there are many situations involved in the work of firemen or people who work for the police force or correctional facilities where they could be put in dangers that are quite outside the intrinsic dangers of being a firefighter or a police officer. Obviously we are not talking about a firefighter refusing to go into a burning building to save a person. However, within the workplace of the firehall, we believe that they should be covered by the workers' health and safety legislation. They should know they should not have to deal with unsafe conditions in that workplace any more than any worker should anywhere else.

In terms of the correctional institutions, there are a great number of people who perform functions in those institutions that have nothing to do directly with guarding prisoners. People who work in the kitchens, for example, the cleaners and those sorts of people, from our reading of the legislation, would be excluded from coverage by Bill 208. We feel that they should be included. Similarly, with the police forces, there are a great many civilian employees, for example, who should be covered.

I think Mr Blair has dealt with some of these cases, so I would like him to expand further.

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Mr Blair: I think that the honourable member raises for us a misconception about the nature of the workplace and the work that people do. The misconception is that firefighters do nothing but fight fires and are only at the site of burning buildings, teachers teach and people in correctional facilities are all jail guards dealing with dangerous prisoners. Of course, the public and many of the members and indeed many experts as well may not be entirely familiar with what it is that people do on a day-to-day basis when they are not faced with situations that give rise to the so-called inherent danger of the occupation or the place of occupation.

The concern arises when we consider, as Ms Lennon indicated, the workplace of firefighters where they spend a great deal of their time containing hazards that we might normally

experience in any workplace that have nothing to do with the inherent burning building problem.

There is a limited exemption or exception to the right to refuse, for example, for teachers, oddly enough, which says teachers can refuse to perform unsafe work but they cannot do so if refusing to perform that unsafe work would put their charges, the pupils, at hazard.

That is the kind of limited right which can easily, in my submission, be addressed to deal with inherent danger or danger to the public or imminent danger to members of the public type situations. The necessity for a broad, crystal-clear exclusion of a clerical worker in a facility designated under the Young Offenders Act, for example, is not at all apparent to me.

I am not sure why that person should be subjected to a complete exclusion from the right to refuse to perform unsafe work or perform work in a hazardous workplace if his refusal to do so is not going to place at jeopardy the very substance of the problem that the institution itself is intended to address.

That, I think, is the gravamen of our submission concerning the extension of the right to refuse to these excluded groups.

Mr Dietsch: Perhaps you can look at it from the light of an opportunity to explain what it is that you are trying to suggest to the committee, as opposed to a misconception on anyone's part. There is no misconception. I think there is truly a view out there in terms of trying to be more definitive. That was what I took from your brief. If you are feeling that there is a misconception on my part, that is not the case.

The other point I want to raise with you is, in this kind of an offer of a suggestion, you are suggesting then that if there were definitive lines between the condition of whether it was in the station or on the road, so to speak—let me just expand that a little bit more—there have been, on occasion, difficulties with respect to particular safety equipment on fire trucks or ambulance trucks, as was brought to our attention yesterday. If that mechanism was not working—and that normally is not the case in fire equipment too, I want to point that out—what would happen, in your view, in that particular case?

Mr Blair: The question is one which, in my submission, can be addressed in the context of whether a refusal, for example, your example of the firefighter refusing to ride on the unsafe fire truck—one can envision quite easily a situation in which such a refusal would place the public in some imminent danger or would render it virtually impossible for the firefighter to prevent

major damage to property and, more important, loss of life, by getting to the fire and putting it out.

In that kind of situation a limited exemption, in my view, which simply prevented the right from being exercised where the exercise of the right would result in imminent danger or would result in an ongoing hazard to the public or occupants of a burning building, could be drafted such as we see, for example, in respect of the workplaces that are covered by subsection 23(2) of the existing Occupational Health and Safety Act, "Where the circumstances are such that the life, health or safety of another person or the public may be in imminent jeopardy, this section does not apply to a person employed in the following institutions," and then there are a number of them listed.

We see a limited right which in our submission could be a practicable compromise between the blanket exclusion and the protection of the safety of the workers in the excluded institutions.

The Chair: I thank you and your colleagues very much for your presentation. It is very helpful.

The next presentation is from the Ontario Hospital Association. Make yourselves comfortable. We welcome you to the committee. If you would care to introduce yourselves, we can proceed.

ONTARIO HOSPITAL ASSOCIATION

Mr Burkness: My name is Brian Burkness. I am a trustee at Scarborough General Hospital and chairman-elect of the Ontario Hospital Association. On my right is Alan Jackson, a trustee for Mississauga Hospital, chairman of the committee of OHA responsible for the Health Care Occupational Health and Safety Association. On my left is Dr Herb Buchwald, general manager of the Health Care Occupational Health and Safety Association, and on his left is Gordon Cunningham, president of the Ontario Hospital Association.

The Health Care Occupational Health and Safety Association, which we refer to as HCOHSA, was established as a department of OHA in 1968. Originally set up by OHA to provide accident prevention services for the province's hospitals, its client base today consists of all employers and their employees covered by Workers' Compensation Board rate group 882. Included in this rate group are hospitals, sanatoria, convalescent homes, nursing homes and visiting nurses' associations supplying nursing as a business. In all, HCOHSA

serves approximately 1,400 employers, which between them have approximately 210,000 employees.

It is important to note that the employers that form HCOHSA's client base are uniquely different from other designated Workers' Compensation Board rate groups. They must be concerned not only for the health and safety requirements of their own employees, but also of patients, visitors and members of their medical staff. Under the continuing guidance of OHA, HCOHSA has developed a highly specialized expertise over the years to serve that need.

The activities of HCOHSA are governed by the board of the Ontario Hospital Association composed of 46 members, who are all with the exception of the president either trustees or chief executive officers of member hospitals. The OHA board is advised on occupational health and safety matters by a standing committee made up of four members of the OHA board and eight other representatives knowledgeable in health and safety issues, both from the hospital field and other representatives of the client base of rate 882.

HCOHSA's location within the Ontario Hospital Association not only facilitates communication but also enables the safety association to draw on many other OHA resources, including legislative services, educational services, the information systems department, the purchasing program and financial services. OHA believes that the work of HCOHSA is enhanced by being within OHA and that the current arrangements should be continued.

HCOHSA provides consultation, educational training and development services in five major areas. These are occupational safety, occupational health, ergonomics, infection control and occupational hygiene. Because back injuries represent over 45 per cent of lost time injuries and 60 per cent of the cost of such injuries in the health care field, HCOHSA places a heavy focus on ergonomics and the prevention of such injuries.

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Our association has one major concern with the bill and wishes to draw the committee's attention to a number of other areas where amendments should be made. OHA's concerns with the legislation fall into four general areas.

The proposed Workplace Health and Safety Agency and its implications for HCOHSA, OHA and health care facilities: OHA recommends that the board of the new agency should accurately reflect the diverse makeup of the Ontario

workforce including nonunionized workers. OHA recommends that the agency's authority should be limited to a broad advisory role and that the existing health and safety associations should retain the flexibility to respond to the needs of their specific sectors. OHA recommends that the volunteer component of the management of the health and safety associations be retained.

OHA is extremely disturbed by the government's proposal for major changes in the way in which occupational health and safety services will be delivered to hospitals and all other health care facilities contributing to the Workers' Compensation Board rate 882.

We request that you amend the bill to exempt HCOHSA from a structure that would give the agency wide powers to administer and oversee and that would require management and labour to have equal representation in respect of the manner in which the association is operated.

Areas of overlap between the existing Public Hospitals Act and the hospital management regulation 518/88 and the Occupational Health and Safety Act are of concern. It is important that the Occupational Health and Safety Act and the Public Hospitals Act and the hospital management regulation do not conflict.

The Public Hospitals Act is currently under review and in that process, as well as in the development of Bill 208, employer responsibilities under the Occupational Health and Safety Act in the following areas should be clarified: (1) industrial hygiene testing; (2) medical surveillance programs; (3) development of a written occupational health and safety policy and program.

We are concerned about the expanded role of the joint health and safety committees. The bill does not make provision for ensuring that nonorganized workers are represented on the health and safety committees. The bill does not address how worker representatives are to be selected in multiple-union environments.

OHA is uncertain how the certification process will be effective in the context of the specialized and diverse health care field. A long and comprehensive education process will be required.

OHA believes that careful consideration should be given to providing a certified member of a joint health and safety committee with the right to order a work stoppage. While this authority is strictly limited in health facilities, OHA must always be concerned about the definition of "imminent jeopardy."

We are concerned with the financial implications for hospitals and health care facilities. Bill 208 would have substantial cost implications for hospitals. The additional costs will result from the certification of employer and workers' representatives, which will require a considerable time period for education and training; the time required for the committee to be present when workplace testing is conducted; increased time for workplace testing that is required under Bill 208; payment to joint health and safety committee members for one hour or more of preparation time for meetings. There is no maximum on the number of committee meetings or the preparation time. OHA recommends that the cost implications be drawn to the attention of the cabinet and particularly of the Minister of Health (Mrs Caplan).

OHA has concerns over employer access to health records concerning a worker. OHA recommends that a definition of "health record" as it pertains to employees be included in the Occupational Health and Safety Act. OHA also believes that the clause dealing with notification of an occupational illness should be revised to ensure that confidentiality of information is maintained.

We have expanded our comments in the written report in front of you. We thank you for this opportunity to make this presentation and would be pleased to answer any questions.

The Chair: Thank you, Mr Burkness, for your presentation. Are there any questions from members of the committee?

Mr Dietsch: I apologize for having had to step out and miss the first point in reference to—I do not know what the acronym means, but it is HCOHSA. In this business acronyms sometimes drive one to consider taking up a new language.

I am curious as to your comment in terms you feel the changes in the Workplace Health and Safety Agency would make it impossible for that organization to function. I would like you to elaborate a little bit on that for me.

Mr Burkness: I would like Mr Cunningham, who is the president, to comment on that.

Mr Cunningham: We use the expression that we operate an "association within an association." Because we serve the people in rate group 882 we serve all the nursing homes and the homes for the aged in the province. In order to be sure we are not serving just hospitals we have structured one of the Ontario Hospital Association board committees to be the Health Care Occupational Health and Safety Association. It is

unincorporated; it serves as a safety association in the health care field.

Our statement really says that for the last many years we have been delivering good occupational health and safety programs to those member institutions. The reality is that this is part of the program of the Ontario Hospital Association. Clearly it is funded by the Workers' Compensation Board exactly as our other safety associations are funded. It costs approximately \$2 million a year to operate the association. We account, of course, to the WCB through the proper authorities for the expenditure of those funds.

The Health Care Occupational Health and Safety Association works under the direction of the board of the Ontario Hospital Association. We are a multipurpose organization. We are there to serve the hospitals in many different aspects and this is one of them. The bylaws of the Ontario Hospital Association provide for governance by a board that is composed of trustees of hospitals and chief executive officers. In other words, it is a management organization.

If the bill should come into effect as it is, OHA could not continue to function as the governing board because there is a requirement that half of the representatives be from the workforce. That would not work in a management organization that has a multiple number of purposes. Effectively, it would move HCOHSA outside of OHA.

Our request is for an exemption on the grounds that of all the safety associations, HCOHSA is the only one that stands separately in that it is part of a multipurpose organization. The others are independently and autonomously established as they are now. Because we have been part of a group, we make the case that we have been very successfully delivering programs and we believe it would be sensible to exempt us and allow us to continue in the same way that we are.

There is a second consideration as to why. The answer is that we are in the health care business. None of the other safety associations is. We have many strong points that Mr Burkness referred to. We have many people within the Ontario Hospital Association, staff members and various committees, helping hospitals to further the health of the people of this province. We believe it is a natural fit that HCOHSA be exempted to allow it to remain within the OHA.

Mr Dietsch: It seems to me an agency is proposed under the proposed legislation, with proposed suggestions from the minister with regard to developing and delivering an enhanced

training system to assist individual workers to both understand and participate in a health and safety network, and to develop a program where they set out guidelines and parameters for certification and put that kind of educational training background to the partnership with the association that would deliver that. I am not quite sure I understand why that would take away from the association.

I thought I understood you to say that because this safety association is made up all of management—am I correct in understanding that?—the individuals who work at that work site would not be able to contribute in an extremely valuable way.

Mr Cunningham: Yes.

Mr Dietsch: If I understand correctly, for example, the nurses who are involved in the hospital setting are the front-line people, I guess, on behalf of hospitals. To say they could not participate in a contributory way to an association and enhance its value, I am not quite sure I understand that comment.

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Mr Cunningham: We have no quarrel with the thought of the agency; that is quite acceptable. We have absolutely no problem with the committees proposed at the workplace; we have not problem with that. We have no problem with the input of anyone who will come forward and help in the matter of occupational health and safety.

Our concern has to do with the governance of the safety association. One of the requirements is that each of the several safety associations would have a governing board that would be one half management and one half labour, and that would not fit the Ontario Hospital Association, so it is with the governance of HCOHSA that we are asking to be exempted. We would fit in every other way under the program, but the governance, under our suggestion, would continue to be vested in the Ontario Hospital Association which we maintain has successfully delivered this program.

Mr Dietsch: The association being responsible to the agency, as it would be structured, with its equal partners, perhaps it would be someone from the hospital setting who may be an appropriate individual who would sit on the agency; I do not know.

Mr Cunningham: Yes.

Mr Dietsch: I am sure there are people in the hospital setting who have equally as much knowledge with respect to health and safety in

the workplace, certainly from that segment, and perhaps would be those individuals. I am not sure there would be any loss on the part of the health facility to have that kind of input.

I guess the other part that sort of disturbs me a little bit is that agency being made up of those equal parts with that neutral chairman, as is recommended or suggested by the minister; I guess I do not quite understand where you are coming from in that respect.

Mr Cunningham: If I can respond again, we have no problem with that agency or its construction.

Mr Dietsch: Your problem is with the association being made up half and half.

Mr Cunningham: The governing board of each individual safety association.

Mr Dietsch: Right.

Mr Cunningham: If the requirement came through and affected us, what would happen effectively is that this program, which we have operated for a number of years, would move entirely outside the Ontario Hospital Association and become a new creature. We are asking why we should move to a new creature when we have a tried and proven organization that is very effective and has direct access through OHA to the hospitals to help them. That is our problem.

The Chair: I notice in your brief that you are fearful of the costs, but at this point you do not have an estimate of what they would be if this bill was implemented. Do you have a committee or is there someone working on that to find out what it would cost the hospitals?

Mr Burkness: I do not think we have gone through the process of calculating out those costs as yet.

Mr Jackson: No.

The Chair: Okay. Thank you very much for your presentation.

We move very naturally from the Ontario Hospital Association to the Ontario Nurses' Association. At least, it feels natural from here; I do not know if it is.

Ms Cole Slattery: I always like being last batter up.

The Chair: Welcome to the committee this afternoon. If you will introduce yourselves, the next half an hour is yours.

ONTARIO NURSES' ASSOCIATION

Ms Bell: My name is Lesley Bell and I am the president of the Ontario Nurses' Association, an independent trade union that represents over

35,000 registered and graduate nurses in this province. With me here today on my immediate left is Glenna Cole Slattery, the chief executive officer of the Ontario Nurses' Association, and next to Glenna is Cathi Carr, a research officer at the association who deals with occupational health and safety. Also with us in the audience today are our provincial occupational health and safety representatives from our association and members of our executive committee, all nurses who work in the province who deal with safety issues on a daily basis and have major concerns, as we have indicated in our brief.

As a major union that has been operating in the health care sector since 1978, we have been struggling with the legislation as it now stands. We are certainly committed to the development of progressively better legislation to obtain healthy and safe workplaces not only for our own members, but because our workers deal with the patients in the hospital settings and the other agencies we are concerned with failures of the system that deal with the patients and clients we look after.

Poor occupational health and safety conditions are a factor in nurses not only leaving the profession but also being forced out of the workplace because of serious workplace injuries such as back injuries. In the health care industry, 45 per cent of workers' compensation cases are back injuries. As well, there are increased incidences of spontaneous abortions due to exposure to nitrous oxide.

Nurses are confronted daily with a wide variety of occupational health and safety hazards in their work environment. Nurses are required to mix and administer anticancer drugs, which can themselves cause cancer by inhalation or skin absorption, often without adequate precautions in place such as vertical laminar flow hoods. Nurses are exposed to other therapeutic drugs such as antibiotics and anticoagulants which are often hazardous to health and are not covered by the workplace hazardous materials information system right-to-know legislation.

As well, nurses confront serious biological hazards which have fatal implications such as the AIDS virus and the hepatitis B virus, yet there is no assurance that the Ministry of Labour will compel health care employers to implement universal body substance precautions to protect us against these blood-borne pathogens.

Recently at one of Toronto's major downtown hospitals, that hospital being the Toronto General Hospital, the radiation protection branch of the Ministry of Labour found radiation protective

measures to be inadequate and ordered the employer to provide proper lead aprons and dosimeters to the nurses. Yet, even though nurses are exposed to radiation through X-rays and radioactive isotopes, they are not usually provided with dosimeters to monitor their radiation exposure. This puts the staff nurse at risk in the area of biological reproduction, to say nothing of the blood dyscrasia such as leukaemia.

Nurses are also confronted with violence in the workplace, ranging from verbal abuse to sexual harassment to physical assault. Little, if anything, has been done by employers or the government to recognize and deal with this problem. Often we find a victim-blaming approach or an attitude of "Too bad. It goes with the job." This is unacceptable, especially in light of the recent events in Montreal.

Nurses also continue to be seriously injured and disabled at work through back injuries and other musculo-skeletal injuries. According to the Ontario Hospital Association, which you just heard talking about how successful its programs are, back injuries represent over 45 per cent of the lost-time injuries in health care. Our own union statistics, gathered over the past 15 years, indicate that the single largest category of workers' compensation cases in our association is back injuries.

Society expects us to work in dangerous environments but the government fails to put mechanisms in place to preserve our safety, and it is given that no employer will take any action without sanctioned direction or statutory direction. As nurses, we can only feel discouraged and angry when we look back over the 10 years that the Occupational Health and Safety Act has been in force for it has, to date, done little to protect our worker category.

We see that the internal responsibility system, which underpins the current legislation, has failed us miserably. The scheme does not envision an equality between the parties. Only management possesses the right to implement changes and it continues to be the function of the industrial health and safety branch to ensure compliance with the act when the outer limits of the internal responsibility system have been exhausted.

The act seriously underestimates the conflict that exists between the cost of safety and the profit motive of the employers, which was evidenced by the OHA's brief earlier. This, coupled with the grossly inadequate number of inspectors, has been a sure prescription for

failure of statutory protection that the workers of Ontario should be receiving.

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From the ONA's point of view, employers in the health care industry have been particularly lax and undermotivated to improve occupational health and safety in their workplaces. The fact that we as nurses have basically no right to refuse unsafe work lets health care employers off the hook and takes the pressure off them to correct health and safety problems. For example, Toronto General Hospital currently has 25 outstanding work orders issued by the ministry under existing legislation, yet it continues to place both the public and staff in jeopardy. For example, the recovery room still functions as they remove asbestos from the ceiling.

In fact, after four years of intensive work, the OHA withdrew from the group effort to develop regulations specific to the health care sector. The group was comprised of representatives of both the Ontario Hospital Association and the health care unions with regard to health care and met regularly for four years. There was no political will from the government to pressure the employer group to maintain its commitment to the entire group.

In view of our past negative experiences, if the government is unable or unwilling to improve the internal responsibility system through these new legislative endeavours, then the system should be scrapped entirely. We take a very jaundiced view of paper resolve. Paper philosophies without compliance are not philosophies, they are only paper. For example, a recent survey of our members indicates that over 50 per cent had only one hour of WHMIS training. If one examines the community health sector, this statistic increases to 58.2 per cent who have had no training whatsoever.

Our union has clearly outlined the negative and positive features of Bill 208 in its written brief. We have reviewed the minister's proposals, which we believe will only serve to further water down the general progressive direction taken by Bill 208 to initially strengthen the joint responsibility of labour and management in the effective control of workplace risks and severe health hazards.

In conclusion, the Ontario Nurses' Association believes that Bill 208 is a good starting point for breathing new life into a broken-down system. If the government fails to carry through with significant changes, the occupational health and safety of Ontario workers will continue to deteriorate. It is imperative that workers be given

an equal say over the conditions in which they work. Failure to do so will mean a continuation of the devastating consequences of the status quo.

If the workplace is as safe as many industries maintain, then why do they fight so hard to have our worker views considered? Bill 208 was promised as a bold new approach to reduce the risks of workplace accident and illness. We urge the government not to lose sight of this vision as it continues in its deliberations on this very important bill.

Glenna has a few words she would like to say.

Ms Cole Slattery: I think the previous speaker probably put it in perspective, which is the only thing that I have agreed with the OHA on in many months. But he did say that it is a management organization, which indeed it is, and he did say that the governance was the problem, which indeed is the problem. It is also their problem with the Public Hospitals Act.

I submit to the committee that the old days have gone, for good or for ill. I am not saying the old days were bad, I am not saying the new days will be better, but the old days have gone. You have a 98 per cent female worker group category here that we represent in a male-dominated industry and the workers are not going to go to their rooms just because dad says, "Go to your room." We have an occupational health and safety committee within the union. We have an occupational health and safety committee in every bargaining unit that we have. Our people are well versed in the laws. WHMIS held out great promise, especially as it related to the education of the workers' rights within the workplace. The results are less than enchanting.

Mr Cunningham mentioned his industry. I would say that 25 per cent of the entire health care industry that Mr Cunningham subscribes to representing are the membership of our union. If he has more than 200,000, we have 50,000. To further emphasize that number I would submit that what Mr Cunningham sells is nursing care. So we may be only 25 per cent of his workforce but we are the workforce that produces his product.

For 15 years the OHA has consistently ignored issues that have been brought to its attention over and over and over again—the nitrous oxide gases in the operating room come to mind first. It speaks of cost. I would question though, could we cost out Bill 208 versus what it costs the province in workers' compensation benefits? I would suggest it would be cheaper to teach a very good piece of occupational health legislation to

the worker than it is to pay workers' compensation ad infinitum.

All of the above is muddled—and I am sure you can hear the testy tone in my voice—by the fact that this union—I myself and Cathi Carr who runs our occupational health and safety, she is our staff person—met with the Honourable Greg Sorbara when he was Minister of Labour. I developed in our conversation an unusual respect for that legislator because he allowed us access, he listened to us and, quite frankly, I think he paid attention.

I was absolutely devastated when, with the committee that had functioned for four years and consensus had virtually been reached within the committee—the OHA was a full participant in this—the OHA pulls its representative, sends in a young lawyer and we are dead in the water. We had maybe half an inch of paper, all the unions involved in the industry and the OHA were in agreement that this could work and the ministry appeared to feel that it was possibly a working document. And we end up with three pieces of paper because the boss managed to get to the legislators.

That is not right. This seated government, Mr Peterson's government, provided forums which were utilized by the members of the unions and the management who were interested in this. I speak only for the health care industry, but since that is one third of the public purse I bet that interests you all. They were good, ongoing dialogues. Cathi Carr was a member of the subcommittee. There was a working document there. Now we have three pages of nothing.

Cathi has a couple of items of specificity that she would like to give you as it relates to that and I do not suppose we are going to change your minds if they are already made up, but give it a try.

Ms Carr: I guess I would just like to make one comment with regard to Mr Cunningham's statements about HCOHSA being the only safety association that is actually wedded to a management group, ie, the Ontario Hospital Association.

In fact, in our view, that is what has presented the problem in our dealings with HCOHSA in the past. In endeavouring to develop a health care regulation, we were making very good progress when the representatives of HCOHSA—their health and safety experts—came to the table. We felt that they had the same creative vision that we did in terms of making improvements in the workplace, but unfortunately, in that instance of attempts to develop health care regulations, at the

last moment there was intervention by the parent, OHA, and that was the end of the consensus around health care regulations.

We attempted to work with HCOHSA on another occasion in order to have worker input. The six health care unions were attempting to develop a document which would be a guideline for health and safety committees in the workplace. Again, we worked very well with the representatives of HCOHSA, the safety association, with the experts. Once again we came to the end of the process and the document was essentially taken out of our hands by the OHA and its legislative committee and rewritten. We had no choice at the end of that process but to pull out and to say, "We just cannot work with these people because there is not good faith."

It seems to me that, unfortunately, the good work that HCOHSA does is in fact blocked by the kind of structural relationship it has with the OHA as opposed to being enhanced by it. We have certainly had evidence of that in our dealings with them and would certainly think twice about joint co-operation again because it has come to naught on both occasions when we have made efforts.

Mr Fleet: I was very interested in this presentation. Just as a comment to begin with, I would like to state that the quote from the McKenzie-Laskin report about the success of the internal responsibility system depending upon top management commitment is, I think, right.

Ms Cole Slattery: It is right.

Mr Fleet: That seems to be the evidence from the employer groups coming before this committee. The ones appearing so far are essentially ones who talk about a positive record in their own workplaces. That is essentially what they are saying to us, among other things.

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One of the difficulties we face as legislators is that it is really tough to force people to be "good managers," to legislate good judgement, and that is not true just in the context of labour relations but in almost every aspect of the things that we legislate about.

With that in mind, I am interested in particular in the list of things that you suggest the bill ought to include that relate to the people you represent. I guess I am interested in your expanding on two points.

One is the danger if you do not have a provision that stops an employer from assigning another worker to do a job that somebody has refused. Give me some concrete examples. One

of the things I am wondering about is, would that be at least partly addressed if the new worker, the one coming into the situation, was at least told that somebody had refused work and what the circumstances were? Is that relevant to the problem?

The second question I would like you to address is the one where you talk about work activity and the notion of persons—ie, patients or visitors to a hospital, I take it you were referring to—creating an unsafe work situation, because that is not normally what people have to deal with in their workplace. It is a little more unusual with nurses in particular. I am interested in any expansion you could bring on those points.

Ms Cole Slattery: I am going to start off by saying it is never a comfortable position to be taking an adversarial stance against a seated government that has the majority your government enjoys. That is always dangerous, because some of you may go away, but you will not all go away all at once.

Mr Dietsch: I hope not.

Ms Cole Slattery: Of course not. Even if you hoped it, it could not happen.

Mr Wildman: Hope springs eternal.

Ms Cole Slattery: That is right. I remember well.

This seated government has done a lot of things which, under normal circumstances, my union would be out beating drums for, such as pensions for part-timers. You brought down the pay equity bill. Refresh me—Bill 208, and there was another one—the regs, the hospital regs, how could I forget? It is probably called blocking.

These were all major initiatives taken by this government which directly benefited the members of my union and I have done nothing but natter at the government because none of them is implemented, thanks to those who shall remain nameless but whose initials are the OHA.

We have got Bill 208 here. Cathi and I went last June to the Honourable Greg Sorbara. I said what pleasure the meeting gave me because at last I was before a minister of the crown telling him, "I'm here to support you 100 per cent on this particular bill." We gave him what we liked about the bill. We gave him what we considered to be negatives about the bill and why, but even including those negatives, I trusted the man, I felt that the regulatory amendment process could perhaps tidy things up for us at some future date, and a month later we come back and I have lost my minister and I have got these three pieces of paper.

Cathi is the one who has developed the arguments that we consider would redress things for us, but you need to know that it grieves me to come before you and virtually put down an opposition to a piece of enabling legislation when I should be here with brass bands and flags waving around.

After I have said that, you can answer his question, because I really do not know; she knows.

Ms Carr: You asked about advising a second worker about the fact that a first worker had refused, why did we feel that was not good enough and why did we feel there should be no further assignment of a refused task until there had been a further investigation. Is that the question?

Mr Fleet: Almost. Right now, there is no provision at all.

Ms Carr: There is a provision that you have to advise. You do have to advise under the current legislation.

Mr Fleet: All right, but what is the evil or what is the injustice—

Ms Carr: What is the problem?

Mr Fleet: —what is the problem if that does not work?

Ms Carr: The problem with it is that if there has been a work refusal and one worker is standing aside and he or she is not prepared to do that work because that person feels it is a serious danger to health, the supervisor advises worker 2 that worker 1 has refused but gives him or her the opportunity to go and do the job. There is just too much opportunity for subtle persuasion. There is just too much opportunity if that person does not want to displease the supervisor or if that person is a probationary employee.

I know there have been examples raised by other organizations from the industrial sector where there have been fatalities where people who do not speak the language have gone up and been electrocuted after a first worker refused a dangerous job. In other sectors there have been fatalities, but I think the potential is there in our sector, and in other sectors, to create a great problem. Surely the sensible thing to do if there is a hazard and there is a refusal is that no one should go near that work until somebody with some qualification, ie, the Ministry of Labour inspector, states that job is now safe to do by worker 1 or worker 2.

Is that sufficient on that, and would you like me to go on to the other question?

Mr Fleet: Yes, please.

Ms Carr: You asked about work activity. We have raised the issue that it did not apply to persons. There is an issue that is coming very much to the fore these days in general society, and it is certainly coming to the fore in our particular workplace, and that is violence in the workplace. We are talking about everything that ranges from verbal abuse to sexual harassment to physical assault. It is a major problem for our members, not just in psychogeriatric units or mental retardation centres alone, but even in general hospitals we have had terrible problems with assault, threats and so on.

Even though, aside from anything else, we do not have a particularly good right to refuse—it is a very limited right to refuse—upon reading the act, looking at the criteria, it seems to us that if there is no recognition that a hazard can arise from a person, you are limiting the criteria too much. The criteria should be expanded to cover whatever dangers could arise in the workplace, be it from a piece of equipment, a device, condition of the workplace, activity as you are proposing to put in, but also to recognize that certain hazards are given rise to by persons as well as inanimate objects or the workplace itself.

Ms Cole Slattery: You do not have to say the bargaining unit, but you recently had a conversation with a group of members.

Ms Carr: It is a difficult situation. We have tried to resolve problems like this. We had a situation in a psychiatric unit where an alarm system was just not working. It was of major concern to our membership. We attempted to bring in the Ministry of Labour inspector and there was no recognition that a problem existed.

It is very frustrating for us. If the internal responsibility system breaks down, we are supposed to get enforcement from the ministry. We could not get recognition from that particular inspector on this issue and had to go to his supervisor. Finally, once the supervisor was involved, it was taken seriously. It is a problem that we see quite frequently.

I do not know if you are familiar with the fact that a major study on violence in health care settings was recently done in Manitoba. It received quite a bit of publicity, but it is a problem, and it is a problem here in Ontario as well as in Manitoba. It is something we have raised with the minister, the assistant deputy minister and also the director of the industrial health and safety branch. They know we are concerned about this.

Mr Wildman: I want to apologize to the committee and to the people who appeared before the committee. My absence was not intentional. The weather played havoc with the air schedules and I have spent two days in airports studying health and safety in airports.

Mr Dietsch: In the air?

Mr Wildman: I was a little more fogged in than normal.

Mr Dietsch: That remains to be seen.

Mr Wildman: There are two things I would like to centre on in your presentation. The first is one you were just referring to; that is, the definition of "work activity." On page 11 of your brief, basically are you saying that the proposed amendments that the committee and the Legislature have been informed of by the minister will result in a situation where workers will be in a poorer situation than they are under the current legislation, much less what was proposed in Bill 208.

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Ms Carr: "Work activity" was a good thing to add as it is contained in the original bill and we were not disagreeing with that. We disagree with the fact that it is being changed, or is proposed to be changed, by the current Minister of Labour to exclude circumstances that would give rise to repetitive strain injuries. We do not think it is appropriate that it do that. But we also wanted to point out and we wanted to say, yes, it is a good thing that you put in work activity, but have you considered that there are additional things besides work activity that also should be considered to be put in criteria under refusals? That would be those things dealing with persons that perhaps have not been considered before.

Mr Wildman: Yes, I understood that. But in terms of ongoing activities such as lifting or something like that that you have under the current legislation, have you had the Ministry of Labour uphold work refusals on that basis?

Ms Carr: Work refusals have been upheld around lifting situations without a change in the legislation.

Mr Wildman: So you are anticipating that if the amendment were to pass, that would threaten the current situation in terms of that ongoing activity and the protection of workers.

Ms Carr: Yes, it should not be amended.

Mr Wildman: The other one I wanted to refer to was the one you just mentioned, the authority to stop work. What do you see as a problem with the minister's approach? You say here that the

minister is somehow going to make a distinction between good and bad employers, and where the ministry determines there is a bad employer, then there will be an inspector full time on the site and so on to try to enforce the act. What problems do you foresee with that approach?

Ms Carr: To us it just seems not practical, not workable. We basically feel that the original intent of Bill 208 is far superior, because I think what we have said throughout our bill is that if you are not going to strengthen the internal responsibility system, then get rid of it and do real enforcement, which is not being done now. The ministry wants to continue with the kind of enforcement we have been getting in the past, and the tradeoff has to be that the workplace parties, and particularly the worker group, have to have a concomitant increase in their authority to get things done in the workplace, which does not exist now.

Mr Wildman: In other words, it would have to be a truly bipartite approach where the worker or the worker's representative has as much control over what is done by the joint committee as management.

Ms Carr: Otherwise, it will just not work, because we know we do not have regular inspections in our industry. When we have inspectors in health care it is usually because we have had to fight to get them to come in over a specific problem.

Ms Cole Slattery: When somebody has asked them to.

Ms Carr: Yes. I usually characterize the system as the internal responsibility-without-authority system because that is just precisely the problem. The joint health and safety committee does not have the power to effect change, and until it has more powers through work stoppages and through other means, then things will not change and things will not improve in Ontario.

Ms Cole Slattery: This is the fox in the hen house syndrome. What is the boss going to say: "Gee, you are a really wonderful worker. I am going to give you a 50 per cent increase"? It is not likely to happen. If the boss says: "Gee, this is really a very unhealthy place for these people to work. I will have to shut down for a couple of months and fix it"—that is not likely to happen either.

The protection of the public is a very legitimate role of government. People think of it in terms of armies and navies and what have you, but the protection of the public and the public health is a very legitimate role of government.

Of course, the Ontario Hospital Association is a little more attractive than most, but I do not know of any management that is going to come down the pipe and say, "Well, let me take a 30 per cent loss this year because I want to really make things right for the workers." That is government's obligation, I submit. That is why you came here. You were sent here by Ontario people to protect them.

We are charging you with the protection of our membership in the workplace. We are telling you that this rinky-dink Bill 208 you have now that displaced a very fine piece of legislation that met the needs of labour and management and government was trashed in the twinkle of an eye—that is St Paul. I do not think he was thinking of Bill 208 when he said "in the twinkling of an eye," but it should not have been bastardized. The bill should have been allowed to float through the hopper and into the legislative system and suffer the attacks of the legislators, who have that right to attack bills, but it should not have been disseminated by management.

Mr Wildman: I just hope the committee, in its wisdom, will reject the amendments that have been proposed.

Ms Cole Slattery: This is a smart bunch of people. Of course they will.

The Chair: That is a very appropriate point on which to conclude the presentation, since our time is up and over. Thank you very much.

Ms Cole Slattery: Thank you for listening to us and letting us come before you.

The Chair: The next presentation is from the Ontario Petroleum Association. I believe those people are here. Gentlemen, welcome to the committee. We are pleased that you are here. If you will introduce yourselves, the next 30 minutes will be yours.

ONTARIO PETROLEUM ASSOCIATION

Mr McPherson: Thank you. My name is Greg McPherson. I am the Ontario division president for Ultramar Canada and currently I am the president of the Ontario Petroleum Association. Accompanying me today, on my right, is George Brereton, who is the executive director of the Ontario Petroleum Association, and Guy Ethier, environment health co-ordinator with Esso Petroleum and current chairman of the Ontario Petroleum Association's labour health and safety committee.

The OPA is very pleased to be here today and to make a presentation to this committee, and we do so with a view to providing information to the

committee which we trust will assist it in its deliberations. As requested, we have brought along 25 copies of our complete brief, which I guess have just been distributed.

The brief basically covers three areas. The first is a brief outline of the Ontario Petroleum Association, its purpose and objectives, the industry's approach to health and safety issues and our track record, which we believe has been and continues to be exemplary. The second area deals with the major specific features of Bill 208 which are of particular concern to OPA members. The third area provides some specific comments on various sections of the bill where we believe changes will improve the clarity of the bill and improve its application. These areas are of lesser importance than the major features dealt with in the main body of our brief, so we will therefore concentrate our comments this afternoon on the areas of major concern and summarize other aspects of the brief which we believe are best assessed by the committee and its staff outside of this forum.

Briefly then, the OPA membership consists of six refiners operating in Ontario; namely, Petro-Canada, Sunoco Inc, Shell Canada Ltd, Esso Petroleum Canada, McColl-Frontenac Inc, which was formerly Texaco Canada, Ultramar Canada Inc and four associate members, which are Cango Petroleums Inc, Canadian Tire Corp Ltd, United Co-operatives of Ontario and Nova petrochemicals. The association represents the interests of the industry in Ontario, particularly when dealing with provincial and municipal governments.

The members are fully committed to and have achieved sound, effective health and safety programs at their facilities. Further, we support appropriate sound and practical legislation to protect the health and safety of Ontario's workers.

The industry is large. It refines, distributes and markets petroleum throughout Ontario. The refining operation is one of a continuous process within large facilities. Partial or complete shutdown of these facilities must be carefully executed to avoid creating hazards. The industry employs about 28,000 people in the refining, distribution and marketing of products. Our total sales are in the neighbourhood of \$5.5 billion per year.

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As to health and safety matters in the industry, once again, we are proud of our track record concerning lost-time injury frequency and severity. Despite handling explosive and flammable

products, our Workers' Compensation Board rate group is 349, which is the group that has consistently been rated first or second among all rate groups in Ontario. This would indicate that we, as an industry, do have at least some expertise in this area.

How it was achieved may be of interest. In addition to a litany of specific programs, practices and procedures which are referenced in our brief, there are two overriding elements. The first is that health and safety is a top priority, and the second is that it is teamwork between management and workers, and indeed government, using the internal responsibility system which will attain the results required.

Some general comments: The Ontario Petroleum Association has reviewed Bill 208 and the proposed changes as outlined by the minister in his release dated 12 October 1989. The comments which follow are an amplification of previous comments and comments to the minister's proposed changes.

The OPA feels that the changes proposed by the minister improve the acceptability of Bill 208, but as Bill 208 as yet remains unchanged, we have concerns that the changes may not materialize. Our comments outlined below are submitted with the hope that they will be of assistance in developing a sound approach to the regulation of health and safety activities in the workplaces of Ontario.

As to the subject of work stoppages, work stoppage is unquestionably the most contentious issue in the new bill. In its previous draft, OPA was most concerned about the proposal to allow a certified member to unilaterally stop work where he or she thinks that a provision of the act is contravened which poses an immediate danger or hazard to himself, herself or his or her co-workers. We would like to reiterate that in a continuous-process industry such as petroleum refining, work stoppages may result in the unplanned shutdown of process units. Because of this, the OPA believes that management of continuous-process facilities must decide the appropriate course of action, which might include arranging the orderly shutdown of such process units.

Accordingly, we recommend that the wording of subsection 23a(1) be amended to assign the certified member the responsibility to advise his or her employer of his or her intention to stop work. The employer can then evaluate the overall situation and determine the necessary action, which may include plant shutdown. It should be pointed out that in many cases alternatives to

work stoppage already do exist in the industry and can be implemented.

We think that the proposal put forward by the minister last October has merit, but we are still very much uncertain about the mechanics of identifying good health and safety performers. We would much rather like to see a co-operative working relationship in regard to work stoppage, where the decision to stop work is taken in a co-operative fashion between management and certified workers. We firmly believe in management's prerogative to manage in a co-operative environment which fosters a health and safety partnership in the workplace.

The OPA notes that, although simplified, new chemical reporting is still part of the act. A new chemical notification to the Department of the Environment is a requirement under the new Canadian Environmental Protection Act. In order to avoid duplication of reporting requirements and the imposition of an additional burden on Ontario employers, OPA recommends that the Ministry of Labour delete the section-21 requirement and arrange for an information exchange with Environment Canada. It is important that Ontario requirements and federal government requirements be harmonized. In this regard, we urge that arrangements be made with the appropriate authorities to amend Ontario's Freedom of Information and Protection of Privacy Act to allow an exchange of information with the federal government whereby the confidentiality aspects currently embodied in the Canadian Environmental Protection Act and the Hazardous Products Act are preserved.

As to certification of health and safety representatives, the OPA supports the internal responsibility system approach to occupational health and safety.

OPA believes that provision of sound health and safety training to workplace parties enhances the functioning of this system and is central to an effective program. OPA member companies have already provided training for health and safety committee members. We were encouraged by the minister's proposal that would recognize internal training when seeking certification. We are convinced that the objective should be to ensure the right level of training which will often be industry-specific and should not be mandated as a specific number of training hours.

The assessment for certification, therefore, should be based on some form of industry-specific comprehension testing and be prepared with industry involvement.

As to the Workplace Health and Safety Agency, OPA believes that the concept of the agency has merit. Improved training of all the parties in the workplace is a positive step that we support and practice within all our workplaces in Ontario. We view favourably a regulation that imposes a level playing field for all workplaces in Ontario.

We are, however, concerned about the structure of the agency. As we highlighted in our previous submission, if the agency is to represent all the workers in Ontario and to work effectively, the workers' representatives must include those from workplaces which are nonunionized. A significant proportion of Ontario workers are nonunionized, and we feel that a mechanism should exist to represent them on the agency. Our industry would be prepared to seek a suitable candidate from its many joint health and safety committees.

The worker and management representatives on the agency should be people who are actively involved in health and safety at the workplace. They should not be from union staff or from the staff of the industry associations, although they could be nominated by such organizations.

The proposal to appoint a neutral chair has merit and we support it, along with the establishment of a small business advisory committee. Many of our distributors of petroleum products in Ontario are small businesses and having an advisory committee to represent their interests we believe is prudent.

As to floor plans, we believe that the requirement for a floor plan to be available on site does not contribute to health and safety in the workplace. It is impractical, particularly in a research and development setting, poses a security concern, particularly where restricted drugs are concerned and it is not needed by our employees or the local fire department. Our employees are familiar with the location of chemicals in our plants.

Moreover, the petroleum industry has a long-standing co-operative relationship with fire departments throughout the province. This includes mutual aid agreements and assignment of firefighting responsibilities to petroleum company experts in cases of petroleum product emergencies. We therefore recommend that this requirement be removed from the act.

As noted earlier, in our written brief we have commented specifically on some sections of the bill. Unless you suggest otherwise, Mr Chairman, in the interests of time I will not read them, but rather leave them for future review. This will

allow, I guess, a little more time for questions and answers.

In closing, may I say we are pleased to have the opportunity to appear before this committee and trust that our comments will be of assistance.

The Chair: I have one question, which other people have raised as well, and it is the question of security because of the floor plans, sharing the floor plans. I have trouble understanding why that is a serious point. I do not pretend to know all of the problems in the various industries, but I am having trouble seeing why that is important. Maybe you could expand on that a bit.

Mr Brereton: We are talking here about sensitive chemicals that people might want to get their hands on, perhaps where confidential business information may be, etc. I do not think the point really is as much security as the problem of filing all these plans with the local fire departments. I do not know where they are going to store them when you consider the number of industries in Ontario. It would seem to be a bureaucratic measure that is not going to accomplish a great deal.

In addition to that, location of substances in the workplace does change and then you are continually required, presumably, to modify your floor plans simply because you move a chemical from a certain building in a plant to another building or another location within the same building.

1610

The Chair: Who knows now where all these things are? Who all has access to that information?

Mr Brereton: The employees, the people who are working with those substances.

Mrs Marland: Would it not also be true, in the petroleum industry or the petrochemical industry, that most of your plans in the first phase have their own firefighting crews?

Mr Brereton: Correct.

Mrs Marland: And it is only in extreme instances that you call in the municipal fire department.

Mr Brereton: That is correct.

Mrs Marland: I am from Mississauga South, I had Texaco and I still have Petro Canada. Is it also true, in your industry, that all of your staff who are on all shifts have to have a complete knowledge of emergencies and firefighting within that industry, which in itself is very specialized?

Mr McPherson: Absolutely.

Mrs Marland: Outside of your industry, if you were looking at Litton Industries, for example, I can see situations where floor plans would be a disadvantage from a pure security standpoint.

Mr Dietsch: Just a supplementary, to understand the question about the fire departments, the question as I understood was that you have your own fire departments, and the addition to that was that you do not use the municipal fire departments.

Mr Brereton: No, I would not go that far. I would say that we have the right to call upon the municipal fire departments to assist us if the incident is beyond the capability of our equipment. Similarly, particularly in the Sarnia area, we could call upon the firefighting equipment of our neighbouring refineries.

Mr McPherson: The primary responsibility is the refinery itself, the refinery personnel and its firefighting team with its specialized equipment.

Mrs Marland: Sorry, Mike, but they actually have equipment, apparatus and clothing that the municipal fire departments do not have.

Mr McPherson: That is right.

Mr Fleet: I want to deal with two somewhat different points. One has been under discussion. There is a difference between whether you are obliged and what Bill 208 proposes you would be obliged to post, where a floor plan could be located when somebody is on the site, and it says "stating where the floor plan is kept in a place or places where it is most likely to come to the attention of workers." Frankly, I did not hear anything in your response that would suggest there is any reason why that not only could not be done, but why it would not generally be prudent to be doing that from the point of view of the employer.

Mr Brereton: No problem there.

Mr Fleet: But the filing, I understand, is a different problem.

Mr Brereton: Yes.

Mr Fleet: I think maybe, I am not sure, but I wonder if the problem, from the government's point of view is, if you do not require it to be filed, you do not know if it exists short of going and inspecting every workplace in Ontario. I leave that point in light of the time available, but from the government's point of view, I do not know how else you know.

The other thing I was wondering about, you talk in your brief about trying to delete section 21

about providing information and you go on to say, "Then you have to look at amending another act, the Ontario Freedom of Information and Protection of Privacy Act." In about 10 years from now, I could see all that might get accomplished with all of the different negotiations with the federal government.

While I am quite sure that it is not the desire of anybody's part to impose an unnecessary duplication, if it is indeed unnecessary duplication of reporting, I am wondering about the logic of your recommendation. If you are going to propose a set of negotiations that are going to go on with two levels of bureaucracy in addition to the labour bureaucracy and the whole problem of chemicals, I am really wondering if that is the most helpful recommendation that might be made in the context.

Mr Brereton: Do you want me to speak to that? You know, frankly, whether or not the Ontario government and the federal government can harmonize on this I would refuse to speculate on. However, I do not think it is inappropriate for us to register a concern where indeed we see that as a significant demand for us.

The number of new substances that might be introduced into an industry can be significant. You are forced to file in Ottawa, you are forced to file in Ontario. It seems to me a simple matter. My understanding is that the problem with this is that the confidentiality of some of the information is preserved by the Ottawa legislation and the federal government will not release it to the Ontario government unless similar protections are provided by the Ontario government. I think, in terms of logic, it might be more appropriate for the Ontario government to amend its legislation.

Mr Ethier: I would like to comment also on the aspect you have brought up in terms of the harmonization aspect, rather than saying the federal government. Maybe you are not aware of this, but there was an Ontario Environmental Assessment Advisory Committee, made up presumably of the provinces and the federal government, that developed the Canadian Environmental Protection Act regulation. Part of that EAAC agreement was to harmonize premanufacturing notification between the federal government and the provinces. So I think there is already some discussion that went on over the last couple of years in the development of CEPA to help this harmonization act.

Mr Fleet: I am not opposed to the harmonization. I just worry about the fact that you say it has been going on for two years. That is my point. I would not want to hold this up or to leave

something waiting for that to occur. I hope it occurs. That is great, but anyway I think—

Mr Brereton: I think you have registered our point.

Mr Carrothers: I wonder if I could hear a couple of comments from you on the stop-work situation or the stop-work proposals. You have made the point in your presentation that when there is good co-operation and so on, such a power may not be needed, and I think that is agreeable. Perhaps if there were a good co-operative effort in all workforces, we would not even need this legislation. But it does not appear that that is the case everywhere. I am just wondering what your comment might be. In those workplaces where there is not good co-operation, do you not think something needs to be done to strengthen the present situation regarding stop-work?

Mr Brereton: The proposal prepared by the minister, I guess, was designed to accomplish that particular point, whereby if the record of co-operation and health and safety in the workplace was not adequate, the right to have it as a joint decision would be withdrawn or something to that effect. I guess that does go partway to resolving the issue, but the problem we see with that would be more associated with what the criteria are by which you make the determination of a safe and sound workplace versus an unsafe workplace.

I guess we feel somewhat remote from this because we believe our track record is such that we would qualify, but nevertheless we felt we should comment on that.

Mr Mackenzie: In summary, you say the Ontario Petroleum Association feels the changes proposed by the minister improve the acceptability of Bill 208, but you are concerned because it is as yet unchanged. Are you telling us that, with the minister's amendments, you are prepared to support the bill, or do you want more changes still?

Mr Brereton: I think, in part, we certainly are prepared to support it, given the other comments that we have made on the other issues which were—

Mr Mackenzie: That support is conditional upon getting the amendments that were suggested by the new Minister of Labour?

Mr Brereton: Yes, I think that is a fair statement, sir.

Mr Mackenzie: I have one other question. When you say that the requirement that a floor plan be available onsite does not contribute to

health and safety in the workplace and is impractical, I am just curious. Do you have any idea as to what the position of any of the unions in your workplace is on that argument that you have made?

Mr Brereton: I personally have no knowledge.

Mr McPherson: I cannot comment.

Mr Ethier: I am sorry I cannot comment.

Mr Dietsch: I wanted to change over to an area with respect to the stop-work. Can you tell me how many times you have had work refusals in your industry?

Mr Brereton: I am not operating in plants and I know of none frankly but, Guy, have you heard of any within your plant?

Mr Ethier: No.

Mr Dietsch: You have not had any use of the current regulations with respect to—

The Chair: Excuse me, Mr Dietsch, could you allow a supplementary from Mr Wildman on your question?

Mr Dietsch: Oh, of course, we are very congenial.

Mr Wildman: If I understand what you have just said, would it not be fair to say that the current legislation, which allows for individual work refusals if a worker suspects a condition to be hazardous, has not been used frivolously or irresponsibly by workers in your industry?

Mr Brereton: I think that would be a correct statement.

Mr Dietsch: That was my next question, Bud.

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Mr Fleet: They are saying it has not been used. Maybe nobody has had a dangerous work situation where he has had to use the act. You can cut it both ways.

Mr Brereton: I think we should understand one thing in this industry, that we do deal with hazardous products and there are incidents that come up daily. We have trained our people in how to respond to emergencies and it is a co-operative effort between management and workers in dealing with that situation. Our employees are well aware of the dangerous nature of the products they are manufacturing.

Mr Dietsch: Is there a mix in the relationship of nonunion and union groups in your industry? Is it mostly nonunion, with some unionized? What is the split?

Mr Brereton: I could not give you exact percentages, but it is a mix. It would be more nonunion than union, but there are both.

Mr Dietsch: There is a lot of discussion with regard to safety associations becoming a part of the proposed agency as we are dealing with it under Bill 208. The agency is designed to develop training criteria, recognizing an enhancement of education in respect of health and safety for workers and the associations becoming the deliverers of those training guidelines and those certification guidelines. Do you have a problem with that? Can you give me your comments with respect to that?

Mr Brereton: In regard to worker training, I feel very strongly personally, and I think I represent the industry in this, that the training has to be specific to that industry. For example, you cannot just train people in being safe without some understanding of the hazards associated with operations within that particular facility, and no one knows the hazards more than the workers and the employers at those facilities.

I think the development of training programs that are really going to get results has to be in co-operation with the workers and the employers in an industry. I do not believe it is possible for someone to sit in an ivory tower and develop more than a generic list of the things that should be trained. When you get down to the specifics, it has to be how to deal with a situation and how to prevent it becoming serious, etc.

Mr Dietsch: Yes, in fact you have. I agree with you in terms of the importance of hands-on participation. In my view, that is one of the things the bill is aimed at doing, increasing the workplace partnership and the responsibility of the workplace partnership.

Do you represent all of the petroleum industry? Is there a portion that is not represented by you? Do you have a ballpark figure? I am sure you must know your membership in terms of how big the body is that is not represented by you.

Mr Brereton: It would largely be in the marketing area, independent service stations that are not members of our association. A number of them are, but not all are. Greg could probably give a better estimate than I of that minority.

Mr McPherson: I estimate that we probably represent about 80 to 85 per cent of the total petroleum industry, certainly of marketing. In terms of refining in this province, we represent all the refiners in Ontario.

Mr Dietsch: So it would be 80 per cent of the marketing and 100 per cent of the refining.

Mr McPherson: That is right.

The Chair: Gentlemen, thank you very much for your presentation.

The last presentation of the day is from the Provincial Building and Construction Trades Council of Ontario. The brief has been distributed already. Members have copies. An addendum is just being handed out now.

Gentlemen, we welcome you to the resources committee this afternoon and look forward to your presentation. Please introduce yourselves, then the next 30 minutes can be yours.

PROVINCIAL BUILDING AND CONSTRUCTION TRADES COUNCIL OF ONTARIO

Mr Duffy: My name is Joseph Duffy. I am the business manager of the provincial building and construction trades council.

Mr Marchildon: I am John Marchildon, business manager of the Ontario Allied Construction Trades Council.

Mr Michael: Tony Michael, business manager of the Toronto-Central Ontario Building and Construction Trades Council.

Mr Majesky: My name is Wally Majesky. I am now a consultant and was the co-chairperson of the Majesky-Minna task force report on vocational rehabilitation.

Mr Duffy: The Provincial Building and Construction Trades Council of Ontario is pleased to have the opportunity to submit our views and those of our council members to the standing committee on resources development charged with the mandate to conduct public hearings on Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

The Provincial Building and Construction Trades Council of Ontario represents 100,000 construction workers in the industrial, commercial, institutional and residential construction sectors. In addition, our council is comprised of 130 affiliated-member local unions made up of the following: affiliated building trade local unions; building trade provincial councils representing individual affiliates, eg, plumbers, labourers, International Brotherhood of Electrical Workers, ironworkers, sheet metal workers, carpenters and many more; and finally, the local building trade councils representing local communities such as Toronto, Windsor, Sudbury, Ottawa, Thunder Bay and others.

We will not go through the brief—as you are aware, the brief has been circulated—but we would like to touch on some major points that we believe should be discussed.

The first point we would like to discuss is the internal responsibility. For those who are not

aware, in the construction industry we have never had any experience with internal responsibility. The system on construction is that there is one safety representative appointed on jobs of more than 20 workers. We therefore request in our brief the need for a workers' committee and a joint committee.

The reason is that with the workers' committee we therefore would have one representative from each of the organizations working on that job. Therefore, their workers would know who that representative is, rather than the way it is now where sometimes the one safety representative is not known by many of the workers on the job site. Those workers' committees would be able to take back the concerns of their fellow workers and present them to the joint committee, of which some of the workers' committee would be a part.

We just throw in some proposed numbers. If it was 12 for the joint committee—six from management and six from labour—the workers' committee, as I say, would be one from each of the organized unions on the job site. Therefore it would not be a major or a large committee going to work with management; it would be six people, a smaller committee than the workers' committee. We cannot believe that a joint committee alone on construction sites would be of much use to us because it would not know the total concerns of the workers on the job site.

Item 2 is on section 8 and it is on page 19 of our brief.

In the light of the Minister of Labour's announcement, section 8 of the act as presented for first reading may be amended, which would have the practical effect of excluding 70 per cent to 80 per cent of all construction projects. This is the guts per se of Bill 208, especially from the building trades perspective.

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Bill 208, as originally introduced, would have made mandatory joint committees in all workplaces of 20 or more employees, including construction sites, unless they are expected to last less than three months. It is important to note that the Minister of Labour has changed the certification requirements for certified worker-members in construction where, although a joint committee can be placed on a construction site, there are 20 or more workers working on that site, so long as the site is to last more than three months.

As it stands now, for there to be a certified member on a construction site, according to the speech read by the minister in the House, it would seem that you need 50 workers and the site

would have to last at least six months, which in effect would negate and eliminate at least 70 to 80 per cent of all construction sites and in the process make the proposed amended legislation ineffective and virtually useless.

This begs the obvious question: How can you have effective occupational health and safety committees on construction sites when approximately 70 to 80 per cent of all construction sites are excluded from the legislation? The answer is crystal clear. The present government, and in particular the Minister of Labour, is really not interested and has no intention in protecting construction workers. If anything, the present government is more sympathetic to construction employers and in particular the Council of Ontario Construction Associations. The cruel irony is that in 1988, 39 construction workers were killed on construction sites, not employers and executives of COCA. The new ministerial amendments, as presented, will do absolutely nothing to stop the unnecessary carnage and accidental deaths on construction sites.

Again, we must reiterate that the definition of "employer" is extremely important. If the employer is the subtrades, then we would never get a required 20 workers or 50 workers. If the general contractor is the defined employer, the construction trades would fare better.

Bill 208 also calls for the health and safety committee members to come from the work site. We are concerned at the fact that it does not call for the employer to have his representatives on those safety committees come from the work site. They can go out and hire outside consultants and have them sit on our safety committees and not know the conditions on the job site.

Inspections of job sites: It calls for the job sites to be inspected once a year. We would like to point out that the Ministry of Labour does not have enough safety inspectors to do a proper job right now. It is our opinion that the only job they are doing right now is answering the phone calls.

I believe 12 years ago the Ministry of Labour had 106 safety inspectors for construction in this province. That was reduced to a low of 65, I believe around 1984-85. It is my understanding that it has now been increased to 100 as of 1989.

It is our experience that the Ministry of Labour does not inspect the job sites right now. They only answer phone calls, and the point we would like to put to you is that we believe a majority of those phone calls are from the unionized construction industry. We would like to know what is happening in the unorganized area. We have pointed out to the Ministry of Labour and

also to the Workers' Compensation Board that there are many job sites in this province where safety has been thrown out the window.

I just want to bring to your attention something I saw on TV this week. They are building a home inside the Metro Toronto Convention Centre, and here we had a TV station showing the building of a house inside the convention centre. They were going to be working 24 hours a day to build this house so that it could be raffled off.

First of all, I noticed that the cameraman went on the plywood roof. He took off his cowboy boots and walked with his bare feet. The workers who were installing that roof were wearing running shoes. Those are points I just saw in a two-minute show on a TV station as happening in this city right now.

Again, I repeat that we do not believe the Ministry of Labour has enough safety inspectors. I guess they are right in putting this article in for an inspection once a year on construction sites, but as we also say, because of 70 to 80 per cent of our job sites not lasting three months or not having 50 workers on them, we do not believe there would be safety inspections done anyway.

The fifth item is that we believe the certified worker must have the authority to shut down unsafe work. We believe that is what he will be trained for and we believe that is the only way. It also helps the internal responsibility system. If you want the internal responsibility to work, you must give him that authority to shut down the job site.

People will be saying, "But you have the right to refuse unsafe working conditions right now," and that is right. The construction worker finally does have the right to refuse unsafe work. The only problem is that the employer is allowed to go and ask someone else to do that work. In our industry, with the ups and downs in the work situation, it is not very hard to put undue pressure on a worker to take a chance and do unsafe work, knowing that the employer will take that into consideration when it comes time for layoff.

In regard to the setting up of the agency, we have no problem in the setting up of the agency. I believe recently you have heard how well the unionized construction industry, the workers or the labour representatives, get along with the Construction Safety Association of Ontario. That is true. Over the years we have had a good working relationship, but over the last several years that relationship has been slowly but surely fading in regard to representation on their board as to what participation we, labour, have.

I believe it was three to four years ago I sat in this same room in front of the standing committee on public accounts. I did not speak at it, but I sat here listening to the construction safety association making its representation for its budget. At that time their president and their general manager Len Sylvester were asked by the members of the committee, "Do you think labour should have representation?" and at that time they stated categorically that we should be granted 50 per cent and that they were working towards that goal, that we would get 50 per cent representation.

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Since then we have continued to meet with them. We have requested representation and I must say that we have made some improvement. The provincial building trades got recognition on the board of directors and we got our executive board. There are 14 members and we got 13 appointed. I was the only one who was not appointed, due to a conflict of interest. We have 13 members on the board of directors and management has 100. That has just come recently, a reduction because of the pressure we have been putting on them for full 50 per cent representation.

On their executive council, which consists of 20 directors, we have two. On their management committee—and their management committee is the one that makes all the recommendations, makes all the financial and directive decisions—we have none. We have requested it and requested it. As recently as yesterday we met with the construction safety management people to request again 50-50 representation.

I must say that one of the problems we face in that idea is how would the unorganized get representation. Yesterday we agreed there should be 50-50 representation; both parties agreed to it. I was the only one in attendance and I agreed with them that we should have representation from the nonunion, we should have representation from the Christian Labour Association of Canada and we should have representation from the independent unions, but it should be from us that the invitations come and we will guarantee those people representation. We figure that they represent workers and we represent workers and we would make sure they got proper representation.

That was not satisfactory. They have to appoint. We asked, "What do you call nonunion representatives?" In other words, if you are going to send a representative from the nonunion sector, how is he going to represent workers if he

gets paid by management? Is he what you consider a workers' representative or is he a management representative? We would consider him, if he gets paid by management, to be a management representative.

We have agreed to have one more meeting.

There is a resolution, I believe, in our brief that shows you what the actions of our conventions call for, that we completely split and request of the government half the funding of the construction safety association to establish our own safety association.

I also would like to point out in regard to a brief—and I am not sure whether I am out of order or not—that was presented, I believe, on Monday, from the Council of Ontario Construction Associations—these are COCA's words, not mine—it said, "CSAO is operated by construction owners for industry's benefit." I have personally sat on that provincial labour-management committee since 1981 and I thought I was there for the benefit of everyone. If I had realized this, I would never have participated from the day I was appointed. I would have backed off. I thought I was there for both parties, but with some of the decisions that have come down, it does not surprise me.

I also heard on the radio yesterday morning COCA's representative speaking about how well the construction industry unions and management get along and what great corporate citizens they are. Certainly we have worked together for a long period of time, but do not forget, COCA are the same people who went to the government and asked for exemptions for the construction industry from the workplace hazardous materials information system program. They did not think we, the construction workers, needed to be covered, we did not need to be informed of the hazardous materials that we were working with, but all the other workers in Ontario should.

When other people were allowed to establish safety committees, they approached the government for the exclusion of the construction workers, which was granted. Recently, on Bill 162, they approached the government to change Bill 162 to deny the injured construction workers the right to rehire. They did not completely defeat us on that because there is a subcommittee, but we were put to one side. The legislation says that other injured workers certainly must be given that opportunity, but us, no: "You go to a subcommittee. You meet with management and see what you can come up with."

Also, under Bill 162 injured workers on compensation would get their benefits covered,

but not the injured construction workers. This is our great corporate citizen Council of Ontario Construction Associations telling you about how well we get along and what a great job they do for the unionized construction workers in Ontario. I wrote down a couple of quick points because I just recently received their brief and saw what they had said. Those are just a couple of exclusions I can remember right now that we know they have presented to the government and got relief on.

I think I have taken up enough time. You will have ample opportunity to go through our brief point by point and I would be willing to answer any questions you have.

Mr Mackenzie: I not only appreciate your brief, but I also appreciate the fact that you put in the position that your provincial building trades have taken at their convention, because in trying to respond to the COCA brief that you have raised, we had to put your position, at least as well as we knew it, on the record because you never would have known it if you had listened to their presentation alone.

You have quoted from the COCA brief here. I wonder if you heard the two comments, and there were a number of them, that were in the Niagara Construction Association brief in St Catharines yesterday. Just to put them on the record—I will not read them all; I will just read the very pertinent points—“The Niagara Construction Association believes that a unilateral stop-work right as proposed is unnecessary, damaging, creates potential for manipulation by unscrupulous workers and does not necessarily improve worker safety.” That is one of the two comments they made.

The second, just so you have them both on record, is: “Niagara Construction Association supports programs that will effectively ensure a safer workplace. However, this legislation makes the employer responsible for all of the health and safety implementation by virtue of massive fines for noncompliance, while workers and certified safety representatives are subject to no sanctions, yet they are given substantial powers to disrupt work sites, even if no unsafe act occurs.” That gives you some idea of the kinds of arguments we were having presented to us from the construction associations in the hearings over the last couple of days.

They also made the point very strongly that they had as much right or ability to pick who the safety and health representatives should be as do the unions, and they certainly made a point that the safety programs should be through the

Industrial Accident Prevention Association and the Construction Safety Association of Ontario safety groups. I am just wondering if you have any comments on any of those points.

Mr Duffy: Funnily enough, I wrote down a point with regard to one of the questions that came from this side. I am not too sure which of the representatives asked it, but he asked the previous people, “How many times has there been a job refusal?” When we were given the right to refuse unsafe work, the howl went up: “You are going to close down every construction site. Because of the construction workers, every site is going to be closed down. They are going to refuse to go to work.” The records show—I believe it is six years now; I could be wrong on exactly how long that has been in—that you have had six refusals in construction to refuse unsafe work.

Mr Majesky: As someone who has worked with the people, I take great offence when people describe “unscrupulous” employees. Construction workers over the last four years have paid with 156 deaths and 64,000 lost-time injuries. These are not unscrupulous employees. You are talking about life and death for people. When you translate that kind of political rhetoric into deaths and injuries, as someone who spends some time looking at injuries across the province, I think it is a fatuous remark on the part of any individual who talks about unscrupulous employees when employees pay with their lives.

We are not talking about some mysterious kind of thing. The reality is that our construction workers are being killed in the line of work and people should be a lot more responsible when they make these offhand comments about unscrupulous employees.

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Mr Duffy: I would just like to say one other thing. With regard to the number, there were 35 killed in 1989 and that is only for the first nine months of 1989. My understanding is that again COCA made representation with regard to how well our industry was doing. There were 16,123 lost-time injuries in 1986 and 40 deaths; in 1987 there were 17,691 and 42 deaths; in 1988, 17,661, with 39 deaths; in 1989—they say we are supposed to be improving—16,019 and 35 deaths for the first nine months. Those are deaths and lost-time injuries. We do not have the number of injuries where people got injured and then went back to work and did not lose time.

Mr Mackenzie: So what we have had is a clear and obvious presentation that shows no

improvement, that is not borne out by fact whatsoever in terms of—

Mr Duffy: These statistics came from the Construction Safety Association of Ontario this morning.

Mr Wildman: So they are staying about the same for the whole period.

Mr Duffy: That is right.

Mr Mackenzie: The other final point I hope your organization is monitoring is simply that every single business group that has been before this committee to date has said the government's bill is fine, or maybe needs to be weakened even further, provided they get all the amendments that are currently there, which gut the bill. I hope this message is clearly going out to the members of your local unions. I have not heard a union say that as yet, but certainly the board of trade, the manufacturers' association—I guess we have not had the board of trade before us. Every single business group has made the argument that it is clearly on side with the amendments that are being suggested by this government.

Mr Dietsch: I could not agree with you more in terms of political rhetoric in terms of unscrupulous employees. I think the majority of employees who are in the workplace are conscientious. They do their job to the best of their ability. The description is not something that we mirror. It was put forward by a group of individuals and certainly is not something I support. I certainly do not think that is the case.

However, in a brief yesterday that I did not get an opportunity to question, exactly the same kind of political rhetoric came forward from one of the unions, accusing the employers in this province of killing workers, saying that the government was killing workers with this bill.

Mr Wildman: They are killing the bill.

Mr Dietsch: It is quite serious, Mr Wildman. I want to tell you that I do not support and I know my colleagues do not support that kind of political rhetoric, but we do not support it on either side.

What we are doing is trying to develop what we think is legislation that will improve the conditions for workers in Ontario. I think there is no question that to try to develop the balance between groups like yours that are quite sincere in putting forward the viewpoint of your membership, and I compliment you on that—but I think in fairness we have to recognize that our difficult task, and my colleagues' difficult task, on both sides, is to cut through those accusations.

It bothers me, as a member of this Legislature, when presenters accuse the government of which I am part and of which the opposition members are a part of killing workers. Those kind of comments have to be somewhat tempered. When we look at the difficulty we are faced with, we try to come up in my opinion with legislation that will move us along.

The question in particular, and I have more to say, is, do you believe that we are moving along, that in fact we are adding more joint health and safety committees to the construction industry, that we are in fact moving along in terms of certified workers? There will be difficulties that we have to face, but this bill certainly puts us ahead of where we are with the act as it exists. My question to you is, there are improvements made, perhaps not as many as you would like and I would like your comment on that.

Mr Duffy: Certainly over the whole thing there are improvements. They are not the improvements we would like to see; we would like to see more. We have no problems with recommending Bill 208; we just do not like the amendments. There is a reduction in the improvements that you offered us.

First of all, the government came along with a Minister of Labour who said to us, "Here are improvements." We said, "Great." We had that minister come to our convention. We approved them, we told him. We got resolutions in. It was not the Godsend we wanted. We could have recommended more changes. As trade unionists I guess we are never satisfied. We always want more for the protection of our workers. Regardless of what we do, we are not going to eliminate accidents and we are not going to eliminate death; it is a part of living. But the fact of the matter is that Bill 208 would have given us more protection than what the amendments are now. You are reducing the amendments.

Mr Dietsch: You bring forward a very important point. The changes as they are made—I do not want to misquote you, but I thought I understood you to say that the changes that are made are not going to eliminate accidents entirely. Is that correct?

Mr Duffy: Right.

Mr Dietsch: The difficulty we are going to have in respect of dealing with certified workers—I want to take that aspect because I think that is an important point. As I understand your industry, the union has the assignment authority for workers to go to particular job sites in respect of trades.

Mr Duffy: Right.

Mr Dietsch: We know that trade workers on particular job sites—it is a very volatile market. They move in and they move out, I guess, in a very volatile market; they move in and they move out quickly. I want to ask you in relation to the assignment of certified workers, do you feel that the construction industry represented—I am talking about the union side. Do you feel the union would have no difficulty in assigning the certified workers to particular job sites as you go through? Could you give me some feedback on that.

Mr Duffy: I think what you are asking is, could we guarantee there to be a certified worker on each job site.

Mr Dietsch: As you move through with the different trades, can you assign—let me put it this way: Obviously you have eight, let's say, electricians who are moving through. You might have one who has the quality of the—I know the numbers are much greater; I am trying to simplify. For example, you have one who is fully trained and certified. That seems to be the argument on behalf of the COCA, which we have kicked here today a couple of times. Can we guarantee them that you as a union can assign those workers that way?

Mr Duffy: We might not be able to assign an electrician, but there are other trades on the job that probably would have a certified worker.

Mr Dietsch: But would he understand the dangers of the electrician?

Mr Duffy: No, but that is why we are asking for workers' committees, because that is one of our major problems, that the labourer or the carpenter might not know the problems the electrician faces. Therefore, that is why we are demanding that we have the two committees, the joint health and safety committee and the workers' committee, because of our industry.

1700

Mr Majesky: There is another answer to that. It is putting the cart before the horse. If you do not have a mandatory joint health and safety committee, what the hell would you train for anyway? The argument about whatever—if you exclude 70 per cent to 80 per cent of the job sites that are 50 and over, then the whole argument about a certified person becomes academic because you do not in fact—Joe's answered yes, they could provide it, and yes, they are quite capable of training, but if you do not have a joint health and safety committee, what is the sense of talking about who is a certified worker when you

do not have a structure in place to be a certified worker for?

It is critical. On the part of their brief about exclusion of 80 per cent of the work sites, if you do not have it, then you can train until you are blue in the face. Where are you going to put them, because you are not entitled to have a joint health and safety committee? They both go hand in hand. Yes, they can train them. Yes, they want to have it. It was promised by Greg Sorbara at one time and now, lo and behold, many sites that have 25 people do not have anything. You can be certified all you want. What are you going to do with it?

Mr Dietsch: Sometimes people have a little opportunity to play with numbers. I do not know. What does 80 per cent of the job sites mean in respect of numbers of people who are represented, of people who are protected? The major job sites, the larger job sites: What does that represent in numbers of people?

The Chair: Can we make this the last question?

Mr Dietsch: Yes.

Mr Michael: For the committees to work properly you need committees from 20 up. We found from experience in the Toronto central area that it must have a workers' committee, because it is to that body that the workers through the various trade representatives take their health and safety concerns. From that body the workers then have a committee struck off that meets jointly with the management representatives, be it five, six or four reps, where the joint concerns are then discussed emanating from the workers' concerns. The workers need that body.

What was the other question you were asking me, the last item?

Mr Dietsch: The numbers.

Mr Michael: The numbers. You have to have workers' health and safety and joint health and safety committees from a minimum of 20 and up. With 50 you are going to lose 80 per cent of the jobs. That is the concern of the numbers. Now from one to 19, you can go with a health and safety rep, but when you get to 20 and up you can have as many as six different trade representatives.

Mr Dietsch: I regret the time, Mr Chairman. I just have difficulty understanding the full ramifications with respect to ensuring that these trade certified people who are trained, and that is important, are there.

Mr Michael: There are a lot of questions to answer there. Who trains them and who is going to pay for the training and so on?

Mr Duffy: Our intentions are that every construction worker in Ontario should be trained to be a certified worker.

Mr Majesky: Absolutely.

Mr Dietsch: Now you are talking.

The Chair: We are over time, so we have been trying to be very rigorous that way.

Mr Wildman: With respect to the emphasis on page 20, in your view, the changes that have been proposed, the amendments that have been proposed were at the request of the employers of Ontario. What consultation did you have with the minister before he made his speech about the proposed changes he was going to make, in his speech to the Legislature?

Mr Duffy: None; not one word of prewarning at all.

The Chair: Mr Duffy, on behalf of the committee, thank you for your presentation and for a very substantial brief that you have presented to us. We do appreciate that.

Mr Duffy: Thank you very much.

The Chair: Members do understand that tomorrow morning for those who are going on the bus, it leaves at 8 am at the front of the building and we meet at Hamilton at the Holiday Inn at 10 am in the Pavilion Room. We are adjourned until then.

The committee adjourned at 1706.

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McLeod, Wayne, Vice-Chairman; President, CCL Industries Inc

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From the Ontario and Toronto Automobile Dealers Association:

Davis, Bill, Director, Government Relations

Stein, Herb, Dealer Principal, Plaza Pontiac Ltd

From the Toronto Transit Commission:

Wenning, Paul A., Manager, Safety and Fire Prevention

From the Personnel Association of Ontario:

Smeenck, Brian P., Bill 208 Task Force; Partner, Winkler, Fillion and Wakely

From the Ontario English Catholic Teachers' Association:

Lennon, Eileen, President

Blair, Richard A., Legal Counsel; with Cavalluzzo, Hayes and Lennon

From the Ontario Hospital Association:

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Jackson, Alan, Chairman, Occupational Health and Safety Committee

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Legislative Assembly of Ontario



Standing Committee on Resources Development

Occupational Health and Safety Statute Law Amendment Act, 1989

Second Session, 34th Parliament

Thursday 18 January 1990

Speaker: Honourable Hugh A. Edighoffer

Clerk of the House: Claude L. DesRosiers

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with a list of the members of the committee and other members and witnesses taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday 18 January 1990

The committee met at 1009 at the Holiday Inn, Pavilion Room, salons A and B, in Hamilton, Ontario.

OCCUPATIONAL HEALTH AND SAFETY STATUTE LAW AMENDMENT ACT, 1989 (continued)

Consideration of Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

The Chair: The committee will come to order. We are pleased to be in Hamilton. I think I speak for all members of the committee.

As many of you will know, Bill 208 is an Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act of the province. It has already passed first and second reading in the Legislature. Now it has been referred to this committee for public hearings across the province.

At the end of the public hearing process, the committee—

[Interruption]

The Chair: It's their time. We must get on with the process. We are pleased that you are here, and I mean that most sincerely, but we really must get on with the process of hearing the presentations.

At the end of the public hearing process the committee will discuss the bill clause by clause to determine what, if any, amendments should be made to the bill in its present form. That is at the end of this process. At that point it is reported back to the Legislature for final reading, as amended, if it is amended.

I want to introduce the members of the committee to you. As you might know, the makeup of the committee is roughly the same as the makeup of the parties in the Legislature. On this committee, when everybody is in attendance—and some have still to come in—there are six Liberals, two New Democrats and two Progressive Conservatives.

On my far right is David Fleet, the member for High Park-Swansea, a Toronto riding. Next is Mike Dietsch, the member for St Catharines-Brock, then Doug Carrothers, the member for Oakville South. On my immediate right, Gord Miller, the member for Norfolk, and Jack

Riddell, the member for Huron. On my left, almost behind me, is Margaret Marland, the member for Mississauga South, Bob Mackenzie, the member for Hamilton East, whom most of you will know, and Bud Wildman, the member for Algoma. My name is Laughren, and I represent the riding of Nickel Belt, north of Sudbury.

We shall proceed—

[Applause]

The Chair: I was worried for a minute. We really must get on with the process. As a committee, we would like to have more time than we have but the time we have been given is set by the Legislature, not by us, and we have a lot more people who would like to make presentations than there is time to do that. So we have restricted all the presentations—we are trying to be strict in this regard—to 30 minutes.

People can take up the full 30 minutes with the presentation or they can save some of the time for an exchange with members of the committee. That is entirely up to the people making the presentation, but we really do try to stick to the 30-minute time limit. Otherwise, we get behind and cut people off at the end of the day and that is surely not fair.

The first presentation is from the Hamilton and District Labour Council. Dave Wilson is here and I guess he is going to head up the delegation. I am sure he will introduce his colleagues. Welcome to the committee.

HAMILTON AND DISTRICT LABOUR COUNCIL

Mr Wilson: On my left is Brian Adamczyk, who is the vice-president of the Hamilton and District Labour Council and a member of the United Steelworkers of America. On my right is John Balloch, who is the chairperson of the Hamilton and District Labour Council's health and safety committee and also a member of the United Steelworkers of America. On my far right, at least physically, is brother Steve Jefferies, who is the sergeant-at-arms of the labour council and a member of the United Electrical, Radio and Machine Workers of Canada. I am from the Communications and Electrical Workers of Canada.

You have already been more or less welcomed by the representatives at the back of the room. But, certainly, the Hamilton and District Labour Council, representing 40,000 workers in the Hamilton area, wishes to thank you for hearing us today.

With respect to Bill 208, we hope the committee and, hopefully, the Legislature will pay more attention to the representations that are being made than they did when we made representations to the same committee in the Legislature on Bill 162. Many people in the labour movement and working people in general are very angry about what happened with Bill 162 and we hope the committee will listen in this case.

Somewhere in the province today a worker will die. Over 1,800 workers will finish their workday with an injury. Thousands of others will suffer and die from diseases they would not have contracted if not for their work and their workplace.

You will notice we have a little presentation over to the left, on the chairperson's right. It represents 293 graves, the number of people who died in the workplace in 1988. We hope that number will be substantially lower next year than it was last year and this year. It is unacceptable to us that this continues.

When Bill 208 was first introduced in January 1989, it was examined in detail by the labour community and, with certain reservations and the knowledge that it was far from perfect, it was by and large endorsed. This was, we feel, in large part due to the consultation that went on in advance, where the labour movement was involved and informed.

It was, from our perspective, the minimum that could be accepted if the workplaces of this province were to be safer and healthier places to work. The leadership of the labour movement went out on a limb to convince our members that the bill deserved our support. On 12 October 1989, the Minister of Labour (Mr Phillips) sawed that limb off by proposing amendments to the legislation which would gut it and move the cause of safety and health backwards in this province.

It would be safe to say that here, in the industrial heartland of the province and indeed of Canada, there is an incredible range of activity that goes on in an unbelievable diversity of workplaces and environments. We have a very active and informed group of health and safety representatives who are as knowledgeable as any in the country. Because of that, we are genuinely

and deeply concerned by the proposed amendments to the original bill.

It is our opinion that the amendments that have been proposed by the Ontario Federation of Labour must be implemented in the legislation for the bill to be successful. Anything short of that will make it seriously, if not fatally, flawed.

We want to emphasize a number of points.

1. A neutral chair. We suspect that no such creature exists. The two workplace partners should co-chair the Workplace Health and Safety Agency.

We should state for the record that the only exception to that would be the occupational health clinics for Ontario workers currently in the middle of their pilot project. They should be allowed to complete that project before there is any change to their structure. Any such changes would have a negative impact on the ability of the clinics to establish credibility with a rightfully cynical workforce.

You will find we note that employer representatives on the boards of those clinics are satisfied with their present composition at this time. At the end of the project, the clinics should be transferred to the jurisdiction of the Ministry of Health.

2. Stripping of the right to stop work from the certified employee representatives. The notion being presented by some members of the employer community that this right will be abused is ludicrous. It would be ludicrous if it were not for the fact that it is being raised again and again and is gaining credibility through repetition that it does not deserve on merit.

There is empirical evidence that since the internal responsibility system was implemented in the 1970s, incidents of any abuse are virtually nonexistent. If it were true that the occasional abuse would occur, and we do not believe it does or will, the positive impact on improving health and safety in this province would far outweigh any negative points.

When over 300 people died last year and more die every day, we cannot afford to be modest in our efforts.

3. Performing hazardous or refused work. If a worker has made the decision of conscience to refuse work, then no one else should be doing that work until the matter is resolved. Time and time again, examples of workers being pressured into doing refused work are given, and that must stop.

4. All chemicals entering workplaces must be tested. With over 5,000 chemicals a year entering our work environments, with over 80

per cent having no toxicological testing whatsoever done, there is an enormous tragedy in the making. Many workers have already paid a price and many more will if that does not change. This is a problem not only in the workplace, but in the environment of our broader community as well. Testing would complement and improve existing limits legislation.

We believe that Bill 208, amended as suggested by the Ontario Federation of Labour, will go a long way towards making this a better province to work in. It would be a solid base on which to build. The Minister of Labour's amendments will defeat the purpose of the bill; they must be abandoned.

We urge the committee to join us and the rest of the working people of the province in making Ontario the safest place to work in the world.

There is enormous discontent in the labour movement and among working people in general with the proposed amendments that are going forward with respect to Bill 208. They cannot be allowed to go forward. There are people who are very angry about these bills.

Bill 162 on workers' compensation betrayed the workers of this province. If we cannot at least make the workplaces of the province healthier and safer to work in, then something is radically wrong with the system under which we labour in this province.

We are prepared to answer any questions the committee has. If we seem a little testy today, it is because we are getting a little tired of this process. If the committee is to be going around the province and holding public hearings, hopefully it will listen to what is said at those public hearings on behalf of working people and make the proposed amendments that we have suggested as the Ontario Federation of Labour. We have had the benefit, perhaps, of having seen some briefs from people who will be coming before you today, and in the past and in the future. We have seen some of the things that are going to be said. We think you have to listen to what is being said from the voice of working people.

[Interruption]

1020

The Chair: Well, I know, but you really must allow the people to make their presentations and committee members to have an exchange with them, because that is the way we do things and I really must insist that that be allowed to happen, out of a sense of decency and fair play, as we hold these public hearings. Mr Mackenzie has a question.

Mr Mackenzie: I would like to get down to the basics with you, if I can, because we can argue all of the individual amendments or the purpose of the bill all day and there are going to be some disagreements with members on this committee, but what I want to ask you is—

[Failure of sound system]

Mr Mackenzie: Is it any better now?

The Chair: They are working on it, apparently. We will do the best we can.

Mr Mackenzie: This is not going to be easy if the people cannot hear, but maybe the people in the front can. I will speak as loud as I can. When Bill 208—

[Failure of sound system]

Mr Mackenzie: For Christ's sake, can the facilities here not arrange a loudspeaker system?

There was better than a year's negotiations by the labour movement, industry and the Ministry of Labour. Those negotiations produced the original version of Bill 208. That bill had a number of deficiencies, whether they were in the public sector, the pay issue, a number of issues that we were concerned with, but with a handful of obvious amendments, basically the trade union movement said it would buy that bill. Not only that, but the Minister of Labour then, Greg Sorbara, came to the leadership of the trade union movement and asked if it would sell the bill to its members, knowing there was some opposition, some of the public sector unions and a number of others, and the labour movement agreed.

When we had the bill brought to the House again by the new Minister of Labour, we were presented with three amendments he said he wanted to move and two suggested amendments, which, as you know, effectively gut the bill.

What I want to ask you people is, what would happen in a set of negotiations if you had reached agreement at the bargaining table, reached agreement to proceed with a bill—a bill, incidentally, which you also lobbied members about and most of them said they were willing to go along with Mr Sorbara, the Minister of Labour—and then found when it was presented to you for signing that the bill had been effectively gutted or changed? What would happen in a collective bargaining situation?

Mr Wilson: I think the employer would be very sorry that it had reneged on the deal because we would make it pay a price for that in the workplace. There is no way we would allow that to happen. If you come to an agreement with somebody in good faith and in honesty, then you cannot renege on that position.

It was raised at a meeting we had this morning that in the 14 years that Bill Davis was the Premier of this province, although we have disagreed with the Progressive Conservative Party on a number of issues, it never betrayed our trust when we came to an agreement with it.

We are very, very angry at the prospect that we will be betrayed on this. We came to an agreement, we believed, with the Minister of Labour of the province at the time, Greg Sorbara, and with the government of this province with respect to Bill 208. If that is betrayed, and that is certainly what appears to us to be happening, we are going to be very, very angry and there will not be workplace rest on this issue.

Mr Mackenzie: The final comment, and I know that is a generic type of a question but I have put it because I think it is the bottom line in this case, is that as well as the sudden change in the House with the announcements of the changes that were to be made, there was absolutely no consultation, which has been pretty well confirmed now, with any of the labour parties that had been involved in the negotiations. I hope that all of your people will look, and ask if I am wrong in what I have said, for some defence of this by the members of this committee and by the government.

Mr Dietsch: The question I have is in relationship to the agency. Your presentation this morning indicates that you are in opposition to what has been recommended by the minister as a suggestion in terms of a neutral chair. I want to define that the agency, as outlined in the bill, will be responsible for delivering the safety, education and the training programs and developing those programs to the benefit of the workers of Ontario, and in fact to the benefits of the health and safety movement, and will also draw a parameter of the certification program.

The agency's neutral chair as a proposed suggestion by the minister was in relationship to being agreed upon by both parties of the agency, which you know is made up of equal parts of labour and equal parts of employers. The neutral chair would also be responsible to the agency and would act in the capacity of bringing together cohesive decisions of the groups. What, in your opinion, is the difficulty with that?

Mr Wilson: In this province and right across this country, the way labour legislation is structured is that we have equal partners in the workplace. We meet with our employers as equal people. We bargain collectively in the vast majority of cases as equal partners. The joint

health and safety committees are currently structured with equal co-chairs in most cases.

Why do we need a neutral chairperson? Before Bill 208 was presented, we came to an agreement, we believe, with the government and the employers that said: "We can get by with co-chairpersons. We can live with that. We as equal partners can deal with the employers and they can deal with us." They had obviously agreed to that. We see no need for a neutral chairperson because it will not be a neutral chairperson. In any case, whether it is rightly or wrongly perceived by us, and I think it is rightly perceived, that chairperson will represent the government, another player in the process. It will not be a bipartite committee or agency any longer; it will be a tripartite committee.

Mr Dietsch: I am not sure you understood what I said in terms of being responsible to the committee that is there in equal parts and being agreed to by the parties that are there in equal parts and responsible for developing that training. I am trying to understand what your fear is. What is it that is the actual fear of the underlying concerns that you have? Maybe you can articulate them. What are they?

Mr Wilson: The same fears that the labour movement in general has always had about tripartite situations. The government of the province will be perceived as being the chair of that committee. I think, in all fairness, the government—

Mr Dietsch: When it is selected by the individuals?

Mr Wilson: I do not think they will be able to come to an agreement on that because, frankly, the labour movement is dead set against having a neutral chairperson. I am not sure you can get an agreement on a chairperson. I think it is going to be very difficult to come to that arrangement.

But in any event the government of the province is a major employer. We have a committee where we have equal representation of the workplace partners. We have a representative of the employer community and a representative of the working community. That is what is necessary and that is what is needed.

Mr Dietsch: Your fear is that the government would select the chair, or it is more than that?

Mr Wilson: Yes.

Mr Dietsch: Is the fear that the neutral chair will not agree with labour or that he will not agree with management?

Mr Wilson: Our experience with neutral chairs has not been good over the years. The

labour movement has a bad opinion of neutral chairs because they are not neutral. Two co-chairs are something we can live with as a movement. We cannot live with a neutral chair because it is never neutral; our experience has always been that.

Mr Dietsch: Your experience has been that they have never been neutral. Can you give me an example?

Mr Wilson: Any time there has been any kind of a tripartite situation where there is a chairperson who is supposedly neutral, you can look at the weight of evidence over the years. Look at arbitration as an example where we normally have three-person boards with the neutral chairperson. We do not get justice out of that system all the time and, by and large, I think that system favours the employer community.

Mr Dietsch: I also have a question in relation to the legislation as a whole. I appreciate your frankness this morning and I appreciate the warm welcome that I got from your colleagues. I think it is important to have all people participate in this kind of a democratic process. We may not always agree philosophically and I guess that is it when you deal with human nature.

1030

None the less, the legislation as has been proposed in Bill 208 is something that you consider to be an advancement for health and safety in the province of Ontario. I hold it out as being a very strong move. There is none like it in the North American market, quite frankly.

Progressively moving down the road, even with the suggestions that have been made by the minister, if in fact they become a reality or are amended through the process of agreement with the committee, I still feel we are moving in a very progressive manner from where we are now with the current act and where we are going, the attempts of moving ahead with health and safety. I agree with you. I agree that injuries in the workplace have to be limited as much as possible, that deaths in the workplace have to be limited as much as possible.

Interjection: Totally; not as much as possible but totally.

Mr Dietsch: I think it is fair to say that we know we are not going to be able to do away with them all. Can you comment on what your feelings are? If the amendments go through, do you still feel that it is an advanced step from where we were with the past act?

Mr Wilson: As Bill 208 was originally presented in January 1989, if that bill were to go

forward with some minor amendments and things we could probably all agree on, I think that would be an advancement for the cause of worker health and safety. There is a lot of debate in the labour movement, but by and large, the majority of us think that Bill 208, as it was originally presented, would be an advancement.

If the proposals that have been made by the Minister of Labour go forward, in fact, they will not make this an advancement; they will be a step backwards for worker health and safety.

Mr Dietsch: From the act as it currently exists? You feel it will be a step backwards.

Mr Wilson: Yes.

Mr Dietsch: The fact that you would have more joint health and safety committees.

Mr Wilson: At best it will be neutral, but at worst it will be less; it will be worse.

Mr Dietsch: I am trying to understand. Can you give me an example? In the legislation as it goes forward, there are going to be an additional 20,000 joint health and safety committees in this province of Ontario; there are going to be certified workers with proper training; there will be more advanced education, a body to develop more advanced education in the field of training for workers in the workplace. And I should tell you that I spent 24 years on the shop floor.

I think there are some steps forward; if you say it is a step backward, I would like you to give me some examples where that would be.

Mr Wilson: Let's be brutally frank about this.

Mr Dietsch: I appreciate that.

Mr Wilson: People are dying in this province. Anything that detracts from what Bill 208 was is a step back. We have an agreement, as a party, with the government, with industry and with the labour movement, to say that Bill 208, while it was not perfect, was at least a step ahead. Why would we take anything out of that bill as it was originally presented? It is a step backward from a position we had agreed to. It was not legislation, but it was something we had agreed to. Why would we detract from what was presented?

This suggestion that we are good employers and bad employers is ludicrous. Du Pont is a perfect example. I understand they have made a presentation to the committee. For God's sake, they say they have had millions of hours with no lost time. There are lots of employers who say that. I work for an employer myself. Bell Canada does not have very many lost-time accidents because, quite frankly, it does not report them, and that happens time and time again.

We had an agreement on Bill 208 as it was originally presented. Let's go forward with that. Let's make the point that worker health and safety is important, that it is, unfortunately, not good enough that anybody dies in this province. When there are no people dying, then we will agree to anything else you want to do. When nobody dies and nobody gets sick in this province, we will agree to anything that is a step back. But if we came to an agreement on Bill 208, let's live up to that commitment, let's pass Bill 208 as it was originally presented and then let's go ahead with that.

Mr Dietsch: I understand what you are saying in reference to when no one dies, and ultimately we have exactly the same goal, because I feel very strongly about that. When we lessen the amount of injuries and deaths in the workplace, I think, yes, everyone has gained. There is no question about that.

What I am trying to understand is your position in terms of the points that you have made here this morning. What I hear you saying is that the original bill, as we have before us right now, is a step forward for health and safety. The proposed amendments by the minister, you are saying, are still some advancement but not as advanced as the original Bill 208. Am I misinterpreting what you are saying?

Mr Wilson: My colleague will answer that.

Mr Dietsch: It is unfortunate. I was hoping you would answer the question.

Mr Balloch: It is okay. Up here we are all of like mind.

There is no doubt that with the initial changes proposed to Bill 208 back in January there was progress, but progress does not have to have a price tag put on it which means restricting the right to refuse, which means taking away the right of the certified worker to shut down an unsafe job yet have a management-certified representative come along and start it up, and it certainly does not mean that we want this tripartite agency, the neutral chair. That is a price we are not willing to pay for some of the progress that is contained in the original Bill 208.

Mr Dietsch: But you support the other parts in Bill 208.

Mr Balloch: The dramatic increase in terms of committees, sure, that is a step forwards, there is no doubt about it. But changing the threshold for the construction industry, for their committees and representatives on jobs, etc, is part and parcel of that backwards step. Leave it the way it

was. We are not prepared to pay that price for what is going forwards today.

Mr Wildman: I would like to follow up on what Mr Dietsch was asking. If there are more committees, as proposed in the legislation as it stands—and you have indicated you think that is a step forwards—do you think it is a real step forwards if management retains the right to determine whether the recommendations of the committees will be implemented or not?

Mr Balloch: No.

Mr Wildman: In other words, if you are not going to allow a certified worker the right to determine whether a suspected hazardous workplace is shut down—it is left to management—then the increase in the committees, while it is nice, does not really mean anything in terms of power in the workplace?

Mr Balloch: You are right. They have to be meaningful, effective committees.

Mr Wildman: I have one other question. Perhaps the members of the Steelworkers on your panel could respond to this, I am not sure.

In the period of time since the individual right to refuse came down, there have not been a lot of work refusals. Both management and labour and, for that matter, the Ministry of Labour, agree that the right to refuse has not been used irresponsibly or frivolously by workers in this province.

In both Sudbury and Elliot Lake, the Steelworkers have negotiated worker inspectors as part of their collective agreements. Are you familiar with those agreements, and if you are, do you have any information as to whether they have been effective and useful in improving safety in the workplace? If so, then why do we not legislate it for everybody?

Mr Balloch: I am aware of the role and function of workplace inspectors. They are doing an extremely credible job up north as far as I am aware and concerned, but it has not prevented fatalities or serious injury from occurring up there, or criminal charges being laid against workers in the north. The concept, to me, is sound, but it is something that has to be fine-tuned between labour and the government as to its application in the industrial plants in the south.

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The Chair: Mr Wilson, on behalf of the committee, I thank you and your colleagues for your presentation. You made it most articulately and most forcefully.

Mr Wilson: I just want to thank the committee, and I want to say that we will give you a

much warmer welcome next time you are in Hamilton if Bill 208 goes ahead as it was presented originally.

The Chair: The next presentation is from the business trades council. Is Mr Dillon here? Gentlemen, we welcome you to the committee. As you know, I think, you have 30 minutes and that is to be used as you see fit, whether for your presentation or an exchange with the members of the committee. Whenever you are ready, you can proceed.

HAMILTON-BRANTFORD, ONTARIO BUILDING AND CONSTRUCTION TRADES COUNCIL

Mr Casey: Thank you, Mr Chairman. First of all, I would like to correct you on the fact that it is the Hamilton-Brantford, Ontario Building and Construction Trades Council. It is not the Hamilton business council, as you had called for us.

Before I start, I would like to introduce the other panel members. There is Patrick Dillon, who is the president of the Hamilton-Brantford building trades council and business manager of Local 105, electricians' union; and on my left, Fred Wilson, who is the vice-president of the Hamilton-Brantford building trades council and also the business manager of the plumbers and pipefitters Local 67 out of Hamilton.

In our submission we will set out as best we can, because of time constraints, the effect of Bill 208 and the proposed amendments by the Minister of Labour at second reading on construction workers.

On 12 October 1989, the Minister of Labour rose in the House to move Bill 208 so that it would be read for a second time. During that speech he made reference to new initiatives and changes to the previous document which had been raised in the House earlier in the year and brought forward by the former Minister of Labour, the member for York Centre (Mr Sorbara). Our analysis attempts to understand what might be possible, given the minister's short speech, which alluded to changes within Bill 208. Clearly, we must wait until there are concrete amendments in legislative draft form prior to having a complete analysis.

Unions have always argued that workers, because of their on-the-job expertise, should have a say in health and safety at work. The Occupational Health and Safety Act recognizes the right of many workers to participate in decisions that affect them through their joint health and safety committees. These committees

can be used as a tool for resolving work site hazards before workers are injured on the job.

While the right of many workers to have health and safety committees has been legally recognized in Ontario since the introduction of the health and safety act in 1978, construction workers have only been allowed health and safety representatives. However, representatives acting on their own are not as effective as a committee, as a whole. Consequently, the building trades unions have continued to fight for legislation requiring mandatory health and safety committees on construction sites.

Present legislation excludes constructors or employers. Under the Occupational Health and Safety Act, joint health and safety committees are required under sections 7 and 8 where "20 or more workers are regularly employed at a workplace" or "a regulation made in respect of a designated substance applies to a workplace." Under clause 8(1)(a) the act specifically excludes constructors or employers who "perform work or supply services on a project" from the requirement to establish a committee. Instead, under subsection 7(1) the act requires, "Where the number of workers at a project regularly exceed 20, the constructor shall cause the workers to select at least one health and safety representative."

It is the position of the Hamilton-Brantford, Ontario Building and Construction Trades Council that health and safety representatives, no matter how earnest or well-intentioned, cannot effectively cope with the broad, trade-specific occupational hazards endemic when performing certain types of construction work. It therefore is practically impossible for a health and safety representative to do an effective job and the same cannot be viewed as a surrogate for a committee as a whole.

Definition of employer on construction sites: Paragraph 8 of the said section 1 is repealed and the following substituted therefor:

"8. 'Employer' means a person who employs one or more workers or who contracts for the services of one or more workers and includes,

"i. a contractor or subcontractor who performs work or supplies services,

"ii. a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services,

"iii. a person who holds a logging licence under the Crown Timber Act,

"iv. a person who undertakes all logging on behalf of a person described in subparagraph (iii) with respect to the licence."

Hamilton-Brantford, Ontario Building and Construction Trades Council response: Paragraph 8 of section 1 is repealed and the employer now means "a person who employs one or more workers or who contracts for the services of one or more workers and includes (i) a contractor or a subcontractor who performs work or supplies services; (ii) a contractor or a subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supplies services; (iii) a person who holds a logging licence under the Crown Timber Act; (iv) a person who undertakes all logging on behalf of a person described in subparagraph (iii) with respect to the licence."

As well, there is a limitation to who an owner is respecting construction workers: "(v) an owner does not become a contractor by virtue only of the fact that the owner has engaged an architect, professional engineer or other person solely to oversee quality control at a project."

A narrow definition of employer might be limited only to the subtrades, however, a wider definition, and if you take a liberal interpretation, then an employer on a construction site would be the general contractor as well as the subtrades. This is relevant in relation to how the act breaks down. Only certain workplaces will get joint health and safety committees and that is dependent on the number of people working on the site.

For instance, if a subtrade only had four workers and that subtrade was declared the employer, it would not be entitled to a joint health and safety committee. As well, they would not be entitled to a certified representative. Consequently, they would not be able to shut down the job nor get information. However, if the general contractor is seen as the employer for the purposes of the act, then there would be potentially hundreds of workers on the site. It is very important that we get a clarification as to who the employer is, and further on we will point out how the definition of employer affects an understanding of the rights and privileges pursuant to this act.

No joint committees on job sites with 19 or less workers: Subsection 3(1) of the bill says: "Subsections 7(1) and (2) of the said act are repealed and the following substituted therefor:

"(1) At a project or other workplace where no committee is required under section 8 and where the number of workers regularly exceeds five, the constructor or employer shall cause the workers to select at least one health and safety representative from among the workers at the

workplace who do not exercise managerial functions.

"(2) If no health and safety representative is required under subsection (1) and no committee is required under section 8 for a workplace, the minister may, by order in writing, require a constructor or employer to cause the workers to select one or more health and safety representatives from among the workers at the workplace or part thereof who do not exercise managerial functions, and may provide in the order for the qualifications of such representatives."

Hamilton-Brantford, Ontario Building and Construction Trades Council response: Subsections 7(1) and 7(2), no joint committee. This section of the act has been changed so that the right of shutdown in a workplace of less than 19 or more than five is not given to a certified worker health and safety representative because in such a workplace there is no need for a joint committee. This begs the question which is pre-eminent throughout our analysis about who the employer is.

1050

Joint health and safety committees on job sites with 50 workers lasting six months:

"(3) Subsection 8(5) of the said act is repealed and the following substituted therefor:

"(5) A committee shall consist of,

"(a) at least two persons, for a workplace where fewer than 50 workers are regularly employed; or

"(b) at least four persons or such greater number of people as may be prescribed, for a workplace where 50 or more workers are regularly employed.

"(5a) At least half the members of a committee shall be workers employed at the workplace who do not exercise managerial functions.

"(5b) The members of a committee who represent workers shall be selected by the workers they are to represent or, if a trade union or unions represent the workers, by the trade union or unions.

"(5c) The constructor or employer shall select the remaining members of a committee from among persons who exercise managerial functions for the constructor or employer and, if possible, who do so at the workplace.

"(5d) A member of the committee who ceases to be employed at the workplace ceases to be a member of the committee.

"(5e) Two of the members of a committee shall co-chair the committee, one of whom shall be selected by the members who represent workers

and the other of whom shall be selected by the members who exercise managerial functions.”

Hamilton-Brantford, Ontario Building and Construction Trades Council response: In light of the announcement of the Minister of Labour, section 8 of the act as presented for first reading may be amended which would have the practical effect of including 80 to 90 per cent of all construction projections, and this is the guts per se of Bill 208.

Bill 208, as originally introduced, would have made mandatory joint committees in all workplaces of 20 or more employees, including construction sites unless they are expected to last less than three months. It is important to know that the Minister of Labour has changed the certification requirements for the certified worker member in construction where, although a joint committee can be placed on a construction site, there are 20 or more workers working on that site, so long as the site is to last more than three months. As it stands now, for there to be a certified member on a construction site, according to the speech read by the minister in the House, it would seem that you would need 50 workers and the site would have to last at least six months, which in effect would negate and eliminate at least 90 per cent of all construction sites and in the process make the proposed amended legislation ineffective and virtually useless.

This begs the obvious question, how can you have effective occupational health and safety committees on construction sites when approximately 90 per cent of all construction sites are excluded from the legislation? The answer is crystal clear. The present government, and in particular the Minister of Labour, really is not interested and has no intention in protecting construction workers. If anything, the present government is more sympathetic to construction employers and in particular to the Council of Ontario Construction Associations. The cruel irony is that in 1988, 39 construction workers were killed on construction sites, and not employers and executives of COCA. The new ministerial amendments, as presented, will do absolutely nothing to stop the unnecessary carnage and accidental deaths on construction sites.

Again, we must reiterate that the definition of “employer” is extremely important. If the employer is the subtrades then we would never get a required 20 workers or 50 workers. If the general contractor is the defined employer, the construction trades would fare better.

Joint health and safety committee members must come from work site:

“(3) Subsection 8(5) of the said act is repealed and the following substituted therefor:

“(5d) A member of the committee who ceases to be employed at the workplace ceases to be a member of the committee.”

Hamilton-Brantford, Ontario Building and Construction Trades Council response: Subsection 41(2) of the act will be amended whereby paragraph 8d will allow the government to create regulations to limit who can sit on the committees from the trade unions. No doubt the exclusion will be executive board members of a union or business representatives of a union. This affects construction more than industrial because of the roving nature of the site.

Pooling of certified worker health and safety representatives:

“(3) Subsection 8(5) of the said act is repealed and the following substituted therefor:

“(5a) At least half the members of a committee shall be workers employed at the workplace who do not exercise managerial functions.

“(5b) The members of a committee who represent workers shall be selected by the workers they are to represent or, if a trade union or unions represent the workers, by the trade union or unions.

“(5f) Unless otherwise prescribed, a constructor or employer shall ensure that at least one member of the committee representing the constructor or employer and one member representing workers are certified members.”

Hamilton-Brantford, Ontario Building and Construction Trades Council response: Subsections 8(5a) and 8(5b): In light of the pool of certified members’ theory, we have a number of concerns. Bill 208 requires that labour members of the joint committee must come from the actual workplace but management members need not. This was to prevent full-time union staff representatives from placing themselves on committees, because the ministry believes that an internal responsibility system should be internal and the people directly affected should be the people to participate. If that is true, then it should apply to management as well.

There is also the very real potential for problems developing when management members come from head office with no understanding of the local problems and in all likelihood creating a disruptive and destructive working relationship.

Subsection 8(5f): Because of the minister’s proposal about the pool of certified members,

this affects construction because it does not allow the workers to choose their representative. While worker committee members are either elected or appointed by their union, this requirement seems to indicate that the employer can choose which one of the worker members will be certified. Many unions invest training time and money in their health and safety representatives and probably will continue even above the certification program. Our council cannot tolerate this kind of absurd situation, and we want to ensure that we continue to control who will act on labour's behalf, especially in this important role.

Employers have 30 days to respond in writing to joint health and safety committee recommendations:

"(6) Section 8 of the said act is further amended by adding thereto the following subsections:

"(6a) A constructor or employer shall respond in writing to any recommendations of a committee within 30 days after receiving them."

Hamilton-Brantford, Ontario Building and Construction Trades Council response: Subsection 8(6a) gives employers 30 days to respond in writing to joint committee recommendations. Although under the present act employers are not compelled to respond at all, it is totally unacceptable to suggest that the parties live with this inordinate delay. Although 30 days is better than the present provision, it is still a lesser of two evils proposition. Our council would recommend that one week is a more practical time frame. What mitigates against the perils of the 30-day delay is the right to refuse or stop work, but we do not believe that such incongruent legislative checks and balances really overcome the 30-day rule, and as a result we would recommend it be seven calendar days.

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Right to refuse or to stop work where health and safety in danger:

Subsections 23(3) and 23(6) of the said act are amended by adding thereto the following clause:

"(ba) The work activity the worker is required to perform is likely to endanger the worker or another worker."

Hamilton-Brantford, Ontario Building and Construction Trades Council response: Subsection 23 should provide for the expansion of the right to stop work to include reasonable grounds to believe an immediate danger that may not be a violation of the law or the regulations. This amendment is aimed at a futuristic approach. It is the tort liability test. If you have reason to believe that an action will create another action which in

fact will create a danger, then the first action should be stopped. It is what is called in tort law the reasonable foreseeability test.

One of the problems now is that when a worker uses his or her right to refuse, the employer will simply assign another worker to do the job and often will assign someone new or an apprentice. The employer is required to inform the next worker of the refusal and he or she can also refuse, but because of this situation the worker may be intimidated. The right to refuse is used in dangerous situations and our council believes that the job should stop until the problem is resolved.

This amendment had been proposed by the ministry in its old Bill 106. The continued ability to assign another worker negates the purpose and effect of our right to refuse.

Investigation of all workers' complaints be mandatory:

"20. The said act is further amended by adding thereto the following sections:

"23a(1) A certified member who finds that... may direct the employer to stop work specifying the work or the use of any part of a workplace or of any equipment, machine, device, article or thing that shall be discontinued."

Our council's response: Our council believes that there needs to be a requirement for certified members to investigate all workers' complaints. We believe this would allow the certified members to have an investigative approach to their job. Again, if on a construction site it is limited to a choice of one certified member per site from a pool of certified members, you might have an electrician looking into a labourer complaint, and that is not a good idea.

Management-certified members can unilaterally start up an operation which has been shut down:

"23a(1) A certified member who finds that, ... (6) The direction to stop work may be cancelled by a certified member or by an inspector."

Our council's response: The right to stop work can be started by the management-certified member. Our council cannot allow this kind of back-door circumvention of the right to stop work by allowing a management-certified member the right to start work after labour has stopped work. This would create terrible problems in the workplace.

Summary comments: Within the context of occupational health, we would like to bring another focus to the whole question, and that is that occupational health and safety are part of a

larger workers' compensation system as the following statistics demonstrate.

The question of injured workers is one of monumental proportions, eg, on a national basis over 1,000 workers are killed on the job each year. Over one million workers are injured, half of whom are permanently disabled. In other words, every six seconds of every working day a Canadian worker is injured, and every 12.7 seconds a Canadian worker is disabled and every two hours a Canadian worker dies.

One may wonder what applicability these statistics have to the province of Ontario, and the relevance boils down to the fact that the situation in Ontario accurately follows the national trend. To make matters worse, as the economy has had a fairly prolonged period of growth over the past six years, there has been a corresponding increase in workplace injuries. For example, in 1985 there were 426,880 Workers' Compensation Board injury claims in Ontario and by all accounts this figure has risen, by conservative estimates, by an additional 15 to 20 per cent, bringing that figure to approximately 515,256 in 1989.

What is more alarming is the marked increase in the proportion of permanent disabilities occurring as a result of workplace related injuries. Overall, Ontario statistics reflect a national trend in numbers of disabling injuries that have far exceeded the growth of the workforce.

These figures clearly demonstrate a rapidly deteriorating state of affairs in matters of work and safety despite all the lofty promises made by the province around this whole question. But within the context of these figures, what is germane to us is that there were 39 construction workers killed in 1988 and close to 20,000 lost-time injury claims.

What is hard to fathom is that society and in particular this provincial government hardly places any real value of recognition on this sorry state of affairs in the construction industry. A day does not go by whereby there are reports of dangerous aspects of the policeman's working conditions or the dangerous working conditions of jail guards, reported in the press and media. The death of a construction worker is relegated to a minor two-line item in a newspaper, if reported at all, which clearly shows the priorities and values of society in general.

Our point is that occupational health and safety should be the cornerstone of the whole workers' compensation system. Society as a whole and in particular the Ontario government should accept

its responsibilities to care and look after the health and safety of all workers, be they construction or otherwise. This is not merely political rhetoric. All evidence so far has indicated that there is no serious attention paid to occupational health and safety, and as a result we have a workers' compensation system overwhelmed with claims and the subsequent rehabilitation services which charitably can be described as second rate.

If we were to characterize the current state of occupational health and safety in the construction industry, the description of the Ontario Task Force on the Vocational Rehabilitation Services of the Workers' Compensation Board would apply equally as well in that construction workers are neglected, rejected and subjected to a system of systemic injustice.

Respectfully submitted by the Hamilton-Brantford, Ontario Building and Construction Trades Council.

The Chair: Mr Casey, I wish there was time for an exchange with you but we must move on. I am sure I speak for members of the committee when I say that we appreciate very much the amount of work that obviously went into this brief and how specific it is regarding the sections of the bill. That will be particularly helpful to the committee when we come to the clause-by-clause process on the bill and have to debate every clause within the committee itself after the public hearings process is over. You really have done us a service with the detail of this brief and we appreciate that very much. Thank you.

The next presentation is from the Hamilton Construction Association. Is Mr Nolan here or Mr Layfield? Gentlemen, we welcome you to the committee. If you can introduce yourselves, we can proceed.

1110

HAMILTON CONSTRUCTION ASSOCIATION

Mr Nolan: I am Cameron Nolan, executive director of the Hamilton Construction Association. Mr Layfield is not able to be with us today. I have with me Jim Jupp, owner of M and J Electric Ltd, a member of the HCA, and Russ Redmond, who is president of Niagara Elevator Inc, also a member of the HCA. I will give the presentation and then all three of us will field any questions you may have, if the time permits.

The Hamilton Construction Association has approximately 530 member firms involved in the industrial, commercial and institutional construction industry in the Hamilton area. This area

includes Burlington, Oakville, Milton, Norfolk and Brant counties, Brantford, Simcoe, Grimsby and all points in between. We are not the home builders, but we know of that group. We are involved in the industrial, institutional and commercial construction sectors, as I mentioned.

Our members employ in excess of 20,000 people and are involved in over \$300 million in construction activity in that area. They are pretty significant numbers and impact greatly on the economy here in Ontario and the livelihood and welfare of our community here in Hamilton.

The brief you have actually has two parts. It has an executive summary, which gives you an overview of the points and a more detailed six-page document explaining some of the comments and points we have to make.

The Chair: I am sorry, but I ask people in the room who are carrying on conversations to do so outside the room. It becomes very difficult and a little disconcerting when we are trying to listen to presentations, so I would appreciate it if you would remember that.

Mr Nolan: I will walk you through the points raised in the brief and then, as I said, Mr Jupp, Mr Redmond and I will perhaps be able to respond to any questions you may have.

I want to start by telling you a little bit about the unique aspects of the industry. I am not going to follow this brief page by page, so I would appreciate if you would listen to me. I will draw your attention to pages as need be. Of the unique things about the construction industry, there are perhaps three principal points that I would like you to keep in the back of your minds.

The first one is that Bill 208 is based on the premise of a fixed work site, a constant and structured workforce and a single employer activity, with employee relationships based on that single employer. These conditions do not exist in the construction industry, where projects are short with daily changes in workers and skills associated with what is handled on the job site.

Site management is complex. It is a maze of layered, contractual relationships, both labour relations contractual relationships and contracts related to the work and who does what work, at what time, for what amounts of money. The delegation of stop-work power to nonaccountable parties actually undermines the fullest possible accountability of management for construction safety.

The third factor is that our industry safety association is indeed accountable, progressive and has the participation and support of workers. It has achieved significant safety results under

the current system of programs and funding. These, we think, are points you should keep in mind when you are considering this bill as it applies to the construction industry.

We want to continue working, providing a product that serves a useful purpose and that will be valued over time by those who purchase it. That is what we do as constructors. To do this, we recognize there is a team effort that has to be put in place to make it successful.

With respect to safety on the work site, we want a safe job site where our employees can work efficiently without injury or death, because both of those things cause us to lose money as much as they cause work to be disrupted and productivity to be slowed down, and all the things that go with that.

These last two factors are at least equally important in our minds to any of the other factors that go into the success of the bottom line of the contracting industry.

Our principal concerns with Bill 208 that we outlined, and I will follow from the executive summary on the first page, are:

1. The creation of an unnecessary new agency and layer of bureaucracy which duplicate existing safety initiatives. We will show you statistics and tell you about the good things our industry is doing, which I think will give rise to the question, why are we adding to the bureaucracy and spending some dollars in that direction?

2. The potential destruction of the Construction Safety Association of Ontario and the existing working relationship between management and labour that supports the success that the CSAO has been able to achieve is of great concern to us. The Ministry of Labour, by digression for a moment, has identified the safety record in Ontario as the best in the world.

3. The potential destruction of the trust and respect that the industry has placed in the CSAO to provide competent safety training. There is a structure in place which has been successful and which everybody buys into. Why change it?

4. The economic impact of the additional costs and productivity reduction that will result from provisions such as the stop-work clause and immediate budget increase to fund the agency will all contribute to a decline in construction activity and ergo a decline in the economic wealth of Ontario.

Our members are concerned. They are very concerned. The government's expressed intent of Bill 208 is to further improve workplace safety. In fact, in our opinion, it will undermine the very successful system that exists in the

province's construction industry. Bill 208 will negatively impact on the industry so as to reduce any possible further improvement to workplace health and safety.

The best methods to achieve the stated objective are improving worker safety training, providing each worker with the required education and continuing emphasis on the joint management-labour relationship that already exists and is working today. Together with a carrot-and-stick method of rewarding those who contribute to the improved safety record and penalizing those who do not contribute, we will continue to make the progress we have made in the past.

I would like to draw your attention to some statistics. Perhaps some of you are unaware, but the 1989 statistics of lost-time injuries in the construction industry are 16,019 as compared to 17,661 in 1988, a reduction in lost-time injuries. I did not calculate what percentage of reduction. It is estimated that once all the numbers are in place, there will be 39 or 34 calculable deaths in the construction industry in 1988 versus 35 in 1989, again a reduction. We have seen a 44 per cent reduction in accident frequency, a 52.5 per cent reduction in medical aid frequency and a 64.5 per cent reduction in fatalities.

There is no question that we are on the road to the objective stated in mind. The safety record of the construction industry is leading the world and getting better. The Ministry of Labour publication, *Construction Safety in Ontario*—if you have not read it, I am sure copies can be obtained—states that Ontario's construction employers have the best record in the world.

Why are these changes being proposed for an industry that is so successful and whose record is improving, we wonder. More important, why is the model which is so successful not being applied elsewhere, we wonder.

Let me deal specifically with three sections of Bill 208, the Workplace Health and Safety Agency, the certified worker and the right to stop work.

Creation of the new agency, because it changes the current labour-management relationship, will, in our opinion, decrease the effectiveness of safety initiatives. I want to repeat, why dismantle what works? I hate to keep saying that, but it just sticks out like a sore thumb.

It is ironic too that while Bill 208 is intended to create a better workplace safety environment, the solution is to dismantle this best system. Bill 208 proposes a new framework which, in our

opinion, will only lead to confrontational models of labour relations.

There is no question that the agency duplicates what the CSAO is already doing. It provides the freedom also to increase costs at 10 per cent per year, costs to be borne solely by employers, but set by an agency with employee representatives making the decision who are not accountable for how the money gets used and where it comes from.

Forcing 50 per cent union representation on the new agency and CSAO places both parties in a position of conflicting interest in the management team, and we think that will be very disruptive to successful management in matters of safety.

Changes proposed by the Minister of Labour (Mr Phillips) in his October speech do not substantially reduce the negative impact. Some of the things that we believe must be done to make the agency work, or perhaps to do what is being done well today, include:

Leave the management structure of CSAO intact. This will allow the successful management team to do the job and continue to meet the kinds of targets that are being expected and that it is proving it can meet.

The connection of CSAO to the new agency should be one of co-ordination of goals and programs for improved performance in all workplaces on behalf of all workers. Indeed, perhaps the CSAO programs and approaches could be a model for other Ontario industries and associations.

To have nonunionized workers fairly represented is important on the new agency. Two of three worker representatives should be non-union, since they represent a fair and equitable portion of the workforce in Ontario.

Members of the new agency, at the very least, should have a direct working knowledge of health and safety issues as they relate to the construction industry.

Those are our proposals on the agency.

With respect to the right of the certified worker to stop work, it is amazing that in all the documentation reviewed, there are no set facts to support the need to extend this right to other than the immediately affected workers. The immediately affected worker currently has the right to refuse work, and I have not seen anything that tells me that that is not working.

We are surprised by the lack of accountability that the certified worker is also being asked to have in Bill 208. Who pays the costs when there are unnecessary situations that arise? Bill 208

transfers stop-work power to a workforce which is not accountable for damages caused by errors in judgement, misuse or abuse of those powers. That is just untenable.

The Hamilton Construction Association believes that a unilateral stop-work right is unnecessary, damaging to the workplace relations between workers and management and creates potential for manipulation by some workers, all of this without necessarily improving work-site safety.

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In our area, in this highly industrialized marketplace most of the industrial plants have very stringent safety requirements already in place. The right to refuse and stop work and the right of the certified worker would create unnecessary duplication of cost both to the industry and the clients whom we serve.

Further, certified workers will have some knowledge. There is no question that with that special training they will be above and beyond what the average worker might be, but we see that as a very dangerous situation since, even so, individual workers cannot be in all places on the work site at the same time. They will only be able to examine and deal with that which they are able to deal with in the few seconds that they are in any one location.

Therefore, at any point in time, the individual worker otherwise on the site will remain at risk, and those who are interested in the average individual worker ought to take heed of that point. It is our belief that the limited training resources will be directed at training quasi specialists and there will not be enough money to really train those who need to be trained.

Our suggestions regarding the right to stop work are follows: The unilateral power to stop work be deleted; the power be replaced with the right of the employee to immediate joint conferencing with the site employer representative and Ministry of Labour representative inspectors; worker education be the focus to ensure that their rights to refuse work are well known, that they can recognize dangerous situations and that they can understand what the appropriate actions ought to be.

The new initiatives to create certified workers duplicate the effective programs that the CSAO already has in place which are available to all workers equally. In part, these include workplace hazardous materials information system training, WHMIS; Occupational Health and Safety Act and construction regulations training; job-specific programs, such as materials han-

dling, rigging, personal protective equipment, etc., and accident and investigation reporting programs. All of these things are working well and are of full access to all employers and employees in the province in the construction industry.

In regard to the certified worker concept, we are going to see the creation of a pool of certified workers. I believe that is the intent. Our industry does not have long-term stable manpower terms or commitments, but rests on the ability to have a pool of equally qualified workers available to work.

The costs to the construction industry by adding this extra layer of people is going to be significant. I want to remind you, and if you look at page 5 of our brief you will see some statistics, about the soft costs in the construction industry, Workers' Compensation Board, Canada pension plan and Unemployment Insurance Commission costs, that are closing in. In fact, I believe they have exceeded \$5,000 per employee.

If we continue to add these soft costs, data show that a one per cent decrease in productivity will cost the Ontario economy \$100 million. Tinkering with a successful mechanism that is already in place, proving that we are making successful our work in terms of safety—it is not perfect; it has not met the goal of no deaths in the workplace, we understand that, but it is going in the right direction—will have negative results and cost us money unnecessarily.

A second disturbing—I find this very disturbing—result of the creation of a pool of certified workers is the formation of an élite group of workers who, by definition, as certified workers will most certainly have special employment status. In our opinion, this will abrogate the right of the average worker to equal opportunity for work.

Certified workers will be quasi specialists, and this presents several dangers, perhaps because they are only quasi specialists: overreaction to safety issues based on inexperience; a lack of accountability of these specialists, and certainly a reduction in the overall expertise and reliance on the Ministry of Labour, the people who know all of the information that is required to be known.

Perhaps one of the other more worrisome aspects of Bill 208 as it relates to the certified worker is the application of training resources to the few, ignoring the majority. Somebody said, "What about the workers?" It is ironic that the person likely to be injured, the average worker who is active on the job site, will not have the

training resources applied to him, but the guy who is going to be around and about, not working with the tools and not subject to injury on an ongoing basis, the certified worker, is getting all the training. That is really just untenable. It does not make any sense whatsoever. In fact, we wonder about that.

Mr Casey said management has not been injured. Of course, management is not in the throes of the dangerous work situation; clearly that is why that statistic is easy. Statistics can mean almost anything.

Alternative suggestions? A comprehensive program of training should be given over time to all workers. Recent experience with WHMIS training, which I was personally involved with in the Hamilton area, is evidence of the ability of industry and labour to work together for a fine, productive training program.

The industry should be directed, through CSAO, to develop a standard for safety training and an effective implementation plan to meet the objectives. It should be the mandate of the industry, labour and management, to work with the Ministry of Labour to set measurable short- and long-term objectives for improved safety in the workplace and then go out and do the job.

I would like to conclude by saying that the construction industry, through its steady progress and world-renowned leadership in safety, has earned the right to special consideration under Bill 208. We request the adoption of the recommendations and alternative solutions included above and summarized as follows:

That a joint labour-management working group be formed to assist in the expansion and implementation of the currently successful programs.

That management and government, the most knowledgeable and the most accountable groups, be expected to continue their effective management towards the stated objectives.

That the concept of the certified worker be deleted in lieu of greater emphasis on the individual worker's right to have full and complete training.

That the unilateral right to stop work be deleted from Bill 208.

That industry, labour and government determine the safety improvement targets which will guide the development of programs to achieve these goals.

That the creation of a confrontational model of safety management be avoided at all costs.

Our proposals achieve the shared ministry-industry goals without the risk to the present

positive safety trends in construction. The ministry proposals, as set out in Bill 208, and the suggestions by the Minister of Labour for minor amendments are laudable. However, they will only work if there is accommodation of the industry proposals and a positive reinforcement for improving safety records and the correlating negative reinforcement for failure to improve.

The majority of construction employers in Ontario have responded. There was an article in the *Globe and Mail* on 16 January where Alan Wolfson, WCB president, says that the injuries are going down and he sees it as a result of the kinds of things that have been talked about in the last two years. Employers recognize the need. They recognize the benefit to their bottom line of health and safety on the job sites. We are doing our job. Let us continue to do our job and work with us to make the progress that the minister has stated he wants achieved.

The Chair: Thank you, Mr Nolan. We have Mr Mackenzie, Mr Dietsch and Mr Wildman and we have a little less than 10 minutes, if you would keep that in mind.

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Mr Mackenzie: I have two or three quick questions. You said in one of your comments that all workers should be pretrained before going onsite. Did I not hear that in your presentation?

Mr Jupp: He said that would be a goal.

Mr Mackenzie: That would be a goal, to have workers pretrained before going on the site? I thought I heard you say that in your comments.

Mr Nolan: All we said is apply the training equally to all workers. I did not differentiate between prior to joining the site or not. For many construction workers that is a nonissue because they travel from site to site.

Mr Mackenzie: Would your association be willing to pay for that training?

Mr Nolan: Our employers currently are paying for that training.

Mr Jupp: I might add that apprentices take a safety course before they are able to be indentured as apprentices. That is one area we are paying for.

Mr Mackenzie: Yesterday and today the building trades, in their presentations, effectively pointed out some of the differences between the fixed industrial sites and a construction site and raised some concerns which you yourself raised as well and yet their position is one that is totally opposite to yours. They have supported this bill not only in the presentations to this

committee but also in the decisions taken at their own convention, overwhelmingly, I might say.

I am wondering why they would not have the faith in the Construction Safety Association of Ontario that you people have. As a matter of fact, they took some time pointing out that while they have co-operated and worked with the CSAO over time, they have very little say in it and the situation, if anything, has not been improving but deteriorating.

Mr Jupp: I can speak for the record that we have achieved. Lost-time injuries are on the decrease; another 10 per cent decrease this year over last year's figures. Fatality figures are down 10 per cent. If you look at a curve of what we have done, the goals and objectives of getting injured workers—

Mr Mackenzie: So whether they have input or feel they have input or are in support of it or not, you are satisfied that your way is the best way.

Mr Jupp: The system is working. It is working very successfully. It is ranked probably number 1 in the world by the minister's own publication.

Mr Mackenzie: Why then do we have this strong case made by the workers who are working in your industry who are not agreeing with you?

Mr Jupp: I think you have to speak to those workers. I cannot speak for them. I am a former electrician. I was a member of the local union in Hamilton. I worked elbow to elbow with many of the people who still work for our firm. I have a vested interest in that they are my friends. Many people in our industry are former tradesmen who have become business people in the construction industry and I think we not only look at the bottom line but we look at the fact that they are our friends and former fellow workers whom we are trying to protect.

Mr Mackenzie: If I were putting my trust in the CSAO as the means of achieving the safety record in the construction industry and had an organization—we had the figures yesterday in all the various categories, but on the board, for example, 13 labour and currently 100 management people, I am not sure I would consider that was fair or was necessarily going to operate in my best interests.

Mr Jupp: I can speak only for the accomplishments of the industry to date. The figures continue to go down. The latest figures are showing a 10 per cent decrease over last year's figures in both major categories.

Mr Mackenzie: On page 6, one of the last pages of your comments, you say, "Our proposals achieve the shared ministry-industry goals." That disturbs me a bit because it seems to me that if we can work together, industry and ministry, and our view carries, it does not really matter what the workers are saying. Clearly, in the presentations to these hearings, including the one just before you, there are some real problems. It was also highlighted effectively with the relationship of CSAO yesterday in Toronto. It seems to me that what you have here is a pitch of, "Our amendments or our approach, along with the ministry, is what should carry," and of course that is the concern of many of the workers in this province.

Mr Nolan: I understand your point. It seems like an imbalance. First of all, let me reiterate what Mr Jupp has said. It is working and you cannot say anything, but we have the same goal in mind. Our interests in terms of health and safety are the same as the workers' interests in terms of health and safety and I am very surprised how you could be disturbed by that.

Let me continue by saying that what labour wants, if I understand it correctly, is a voice without any accountability. You cannot have responsibility without accountability. Those two things must go hand in hand.

What I perceive from what you are talking about is, where there is a 13-100 balance, frankly, the management team is doing the job it is supposed to be doing. Does it really matter whether there are 13 voices? On each of the labour-management health and safety committees that exist across the province that feed into the Construction Safety Association of Ontario, there is 50-50 representation.

Mr Mackenzie: Who is accountable where, as happens in many cases, management chooses the labour safety and health representative on the site? To whom is that health and safety representative accountable, when you talk about accountability?

Mr Nolan: To whom is he accountable?

Mr Mackenzie: The numbers that are appointed by management are very large, as you know from the figures. I think there is a real question in terms of accountability.

Mr Dietsch: I want to pursue the line of questioning Mr Mackenzie has been looking at, and he is quite right. The CSAO presentation yesterday outlined the kinds of management makeup. You indicate that it is working and that seems to be the major reason why you do not

want more labour participation. I would like to use a little analogy, if I might.

I drive to Toronto every day along the Queen Elizabeth Way. My car works, but I can only go 40 miles an hour so it takes me longer to get to Toronto than it should, but had I been able to drive my car at 60 miles an hour I would get to Toronto more quickly.

I guess the point I am trying to make is, perhaps with a view towards expansion of the input from the people who are right on the job sites—and you did say yourself that the indication with respect to job injuries is that there are more among workers than there are among management, because those workers are on the job site and that is quite correct—I feel that there is potential for movement along with more rapid speed to reach our objective. I think all of us have the same objective and that is to lessen the number of injuries and accidents that we have in the province.

I would like to ask you what your view is. I hear what you said about the terms of its working. I guess I submit to you, can we improve that working? Can we, and if we do improve it, how do we best improve it? Can we improve it better by putting more people who are on the site every day on that committee? I would like to have your response.

Mr Jupp: I think one of the basic thrusts of our proposal is that we spend the money, if you will, on educating the whole labour force as best we can, rather than picking an individual on a particular job site. We just think it would be more effective to have a workforce better educated overall rather than one individual on a particular job.

Mr Dietsch: But the point I am trying to get at is the participation of the individuals from labour on the CSAO; why do you not want it to be more labour-oriented on that CSAO? I understood it could be union or nonunion.

Mr Nolan: I understand your question. Frankly, what you are addressing is a bureaucracy and what you are addressing is doing all the things in the management, that where management is doing all right now, let's set some targets; that is the first thing we ought to do. That is where the emphasis ought to be. Let the systems that are in place to translate the education to the worker now do the job of meeting those targets.

There are 16,019 lost-time injuries in 1989; there were 35 related deaths in the construction industry. What is the percentage of deaths to other injuries? The other injuries are all of the other things: lifting improperly, walking up a

ladder improperly, tripping over boards, not cleaning up your job site and the nails. Who are the people who are being injured? The individual workers; not the certified worker, not me, not Mr Jupp necessarily and not you.

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Let's train the workers to make sure they understand they have got to keep their job sites clean, they have got to walk up the ladder properly and tie it off, they have got to do their rigging properly. Spend the dollars on the people who deserve to know what is right and how to do it. Most of the injuries are because people just forget or get lazy or because management does not put the emphasis on and we believe the setting of targets will re-emphasize that. I have a contractor on my board of directors who said, "When I took a direct interest in safety, my people took a direct interest in safety."

As to the current access and information coming out of CSAO, CSAO will tell you it is getting calls constantly now from employers: "I want to write a safety policy. Can you help me?" Management is responding well to the changes. You are not, by passing Bill 208, going to give them an opportunity to do it well. In fact, you are going to divert their attention away from the objective.

The Chair: I am sorry to end this exchange, but we are actually over time, so we really must move on. Thank you very much for your presentation this morning.

The next presentation is from the Canadian Auto Workers. We welcome you to the committee. The next 30 minutes are in your hands.

CANADIAN AUTO WORKERS, LOCAL 397

Mr File: My name is Bob File. I am secretary of Local 397, Canadian Auto Workers in Brantford. Mr Tubman will not be with us this morning. I understand they were announcing a closing of one of the plants he represents this morning in Brantford, so he stayed behind. Inasmuch as he and I were to share this time period, my brief will be brief.

Local 397 CAW appreciates the opportunity to appear before the standing committee to address our concerns about Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act. In Brantford we have seen during the past 10 years an alarming increase in the number of permanent disability claims. The case load for WCB representatives has doubled. We believe that not all of the repetitive strain injuries are being reported and therefore many more workers are suffering and

losing earnings without the protection of legislation.

In Ontario we have seen increases in the number of workers killed on the job, the number of workers injured seriously enough to lose workdays and, most important, an increase in the days lost to production. The latter has been shown to be seven times more than strikes and lockouts. Something has to be done to correct a system that allows this to happen.

We are concerned when the Minister of Labour's own advisory council has found that the internal responsibility system is not functioning. In the eighth annual report, volume 2, they concluded: "Another important concern is the issue of workers' ability to influence health and safety matters and the responsibility which should be attendant to increase worker influence. A number of findings suggest that Ham's conclusions of 1976 still apply: that workers lack the ability to play a full role in the internal responsibility system."

The bill introduced in January 1989 had some progressive steps included, steps that would enable workers to have a more substantive role in the internal responsibility system, including: joint health and safety committees in every workplace of 20 or more employees, including 30,000 office and retail establishments and on construction projects expected to last three months; worker health and safety representatives in all workplaces of between five and 20 employees or a construction site with more than 20 employees but lasting less than three months; to require co-chairpersons on the joint committees; all medical surveillance requirements to become voluntary; duty on employers to pay costs, including lost time and travel, where a worker undergoes a medical examination required by law; the right to refuse unsafe work will include activity which covers repetitive strain situations and poor design; to require a certified worker and management member in each workplace, with special training; when the members are certified, they will have the right to shut down an unsafe operation; establish a bipartite Workplace Health and Safety Agency which is responsible for overseeing all of the training and research moneys available to the present safety associations, the Workers' Health and Safety Centre, the two labour-controlled occupational health clinics for Ontario workers and any research projects undertaken within the ministry or through grants to the outside; to ensure more training for all in health and safety; and to increase the maximum fine to \$500,000.

The bill was far from idyllic, but it gave a base to build on. The Minister of Labour, the Honourable Gerry Phillips, has crumbled under pressure from industry and proposed a number of amendments on 12 October 1989 which would render the bill ineffective.

Within my local union there is considerable concern that the restriction on the individual right to refuse unsafe activity will have a major impact on the workers, particularly the women who work at TRW and Lean Flow Metal Products. Proposing to restrict the interpretation of "activity" to an imminent hazard or threat is a step backwards for the workers I represent.

Up to now, workers have actually refused to perform work where the design of the equipment or tools or the repetitive process may cause a long-term chronic condition and the ministry has upheld their right to refuse. The largest number of WCB cases we handle at the local union are repetitive strain injuries. Injuries caused by poor ergonomics are chronic, painful and debilitating. Bill 208 offers workers little hope in dealing with ergonomic conditions.

The minister's amendments have taken an axe to the right to stop work. As the bill is now written, a worker certified member can stop work and the management certified member can start it up again. We had better take a close look at this. In the past two years, nearly 700 workers were killed on the job. Some four million workers have been injured on the job since the bill came into effect 10 years ago. The worker must either agree to restart the work or an inspector must be called. We have the opportunity and an obligation to stop the carnage and put lives before profits.

The right to stop work is the worker's first defence in self-protection. It forces the internal responsibility system to function and to respond to the worker's concern. The minister has stated that the right to refuse was not frivolously used in this province, and there is no reason to believe that the right to stop work would be either. The right to stop work is essential if workers are to have influence on the internal responsibility system.

Brantford and Brant county is a farming area. The minister has seen fit to exempt farm workers from this legislation. Farming accidents are on the rise and a marked increase in the number of farm workers contracting cancer from the chemicals used in agriculture is evident. Today, farms are very much like factories. They are highly mechanized production facilities that should be covered under the act.

No worker should be exempted from this act. Correctional officers, police and firefighters should be equally protected. Why limit the individual rights of health care workers and teachers?

My local union has some specific concerns with respect to Bill 208 as it is now written.

The bill in its present form allows an employer 30 days to respond to the workers' health and safety representatives' concerns. This is far too long a period. A more realistic time frame is seven days. We are talking about the safety of workers and it is important that the concerns be dealt with immediately.

The bill is far from specific with regard to payment of workers when the right to stop work is applied. What about the other workers affected? At what stages of the refusal is the worker to be paid?

There is no deterrent for employers when it comes to harassing workers who refuse unsafe work. The appeal procedure does not provide penalties for employers who use intimidation techniques to influence workers.

Clearly, reprisals are a violation of the act and should be dealt with as such. Violations of the act are punishable with fines and jail sentences and harassment of workers should be handled with equal severity.

We believe the entire workplace should be inspected monthly. An annual inspection is not sufficient to protect workers in this province. If the internal responsibility system is to work, then regular inspections of the workplace and corrective measures taken by the joint health and safety committee are essential. Regular inspections could correct problems that otherwise would end in a work refusal.

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We believe that all members of the joint committee, both workers and management, should come from the workplace. As the bill is now written, management members need not come from the workplace.

Labour members of the joint committee should have the right to bring in technical advisers for assistance with health and safety problems. Some issues are highly technical and scientific and it is important that the workers have access to advice from experts independent of the company and the ministry.

We believe that no worker should be assigned a job that has been refused until the refusal is resolved. Any deviation from this will negate the worker's right to refuse.

We believe that the certified worker member should investigate all worker complaints. The current proposal uses "may investigate." In order to ensure that these certified members provide an important key in the working of the internal responsibility system which could prevent an individual worker from moving to his or last resort in refusing unsafe work, they must be required to investigate all complaints.

Before I conclude, I would like to mention a couple of things that have come up since the brief was prepared. This morning in Brantford a construction site collapsed and all the iron framework fell in, leaving the site destroyed. Fortunately, that accident happened before there were any workers on the site. I heard some people talk about construction safety and steps forward. I want to know where they were on this site where several workers could have been killed had the accident happened an hour or so later when the site was busy with workers.

We had in Brantford recently a strike that took place at a company, and during the process of that strike we found out that none of those workers had received training in the workplace hazardous materials information system. Where were the inspectors from the Ministry of Labour? Why did they not know that these people had not been trained in health and safety? Prior to that, this same company had workers using isocyanates with their bare hands. Where were the Ministry of Labour inspectors while those people were using those chemicals with their bare hands?

The reason they are not being inspected is because there are not enough inspectors. There are not enough people enforcing this legislation. It is lovely to have legislation and say, "We're protecting the workers," but if nobody is enforcing it, it does not work.

In conclusion, we at Local 397 of the Canadian Auto Workers ask the government to seize the opportunity to produce an act that improves, for the first time in 10 years, the Occupational Health and Safety Act. This government has an obligation to the workers of Ontario to significantly reduce the pain and suffering and death caused by hazards in the workplace.

The workers must become equal partners in the matters of health and safety. The employers have given a clear message to us that a life lost or a person crippled is acceptable in the search for profit. When an employer such as TRW in Brantford appeals to the Workers' Compensation Appeals Tribunal the findings of a WCB doctor,

we find out that intimidation and not consultation is its answer to health and safety.

We implore this government to go back and provide workers with a bill that will be effective in protecting us and to get rid of these amendments that leave Bill 208 crippled.

Thank you for hearing us.

Mr Dietsch: Yesterday in one of our presentations we heard from a business organization that it was providing safety equipment for its employees and the employees were refusing to wear it. I would like to know what position your union would take in relation to that. Obviously on the kinds of work sites I am familiar with and that CAW represents, many employers provide safety equipment and if those employees refuse to wear that equipment, for example, eyeglasses, footwear, or masks if they happen to be in chemical areas—can you give me some feedback as to how you would handle that.

Mr File: I believe that if a worker is required to wear safety equipment, he or she should be wearing it. The collective agreements provide for action to be taken on the part of the employer and to be dealt with under that system. If the employer does not have the wherewithal to enforce the fact that people should be wearing equipment, then perhaps he should give up being an employer. I certainly know how to make my children behave.

Mr Dietsch: Coming from your particular union, you support the employer's discipline mechanisms for employees who refuse to wear safety equipment. In many cases some of the safety equipment came as a result of bargaining at the table by the unions to get the safety equipment.

Mr File: The discipline mechanisms are set out in the collective agreement and can be followed.

Mr Dietsch: The other question is in relation to page 5 of your brief where you outline some of the comments with regard to the response time by employers for written concerns that are brought to their attention. You are aware, of course, that in the bill it says that the joint health and safety committees will respond to the employers with their concerns and that the employers have to respond in 30 days, not just with agreement or disagreement, but with an action plan on how they are going to deliver their concerns and settle those concerns within those areas. You agree with that recommendation, but you just feel the time frame should be shortened.

Mr File: I believe the time frame should be shortened. I think 30 days is far too long when we are dealing with someone's safety.

Mr Dietsch: But you agree with the recommendation that employers should be compelled to respond in writing.

Mr File: Yes.

Mr Carrothers: I wonder if I could get your reaction to a perspective, I guess, or a concern that seems to have been expressed to us by some of our witnesses, those who seem to have factories or other places that have pretty good safety records. They were pointing out that the reason they did was that they had a very good co-operative spirit. Everybody respected each other's point of view and when someone said, "There's a problem," everybody got down and basically solved it. They were saying to us that changing that with a stop-work order that perhaps would give one party the right to make a unilateral decision was somehow impacting on this balance and would disrupt or destroy what was already a good working relationship. I wonder if you have any reaction to that perspective.

Mr File: I believe that if you have a good working relationship between an employer and the employees, this legislation will not have any impact on that. If the employees have a good relationship and know that they can come to the employer and discuss their concerns and have been doing that all along, then they will continue to do that. They are not going to frivolously use this right to stop work or to make unilateral decisions. Those decisions only come when an employer refuses to recognize the fact that the workers have a right to air their problems.

Mr Mackenzie: I wonder if you would be surprised to learn that we have almost twice as many inspectors to protect fish and wildlife in Ontario as we do to protect workers in health and safety situations.

Mr File: Not at all.

Mr Mackenzie: The other question I have deals once again with the suggested amendments to the legislation. We had earlier a number of questions by one member of the committee: "The bill is okay as it stands. Less okay, but maybe you could still support it with the amendments." On the suggested amendments—weakening the right to refuse, the work conditions protection being definitely a step backwards, the change from internal responsibility through the neutral chairman and the change in the numbers in terms of the construction industry—do you see those

amendments as fundamental? With those amendments, would your people still be in any way, shape or form supportive of this bill?

Mr File: No, I do not believe so. I also believe that we have been deceived, because I believe that prior to these amendments we had an agreement that even though the bill was not as we would have written it, being labour people, it was acceptable to us. Since that point it has been changed. I believe that gentlemen are gentlemen and that when a deal is made, a deal is made. It seems to me this government has forgotten that deal and has come forward with amendments now that change the intent of our agreement back when the bill was first introduced.

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Mr Wildman: I would like to ask about two things. Number one, in the previous presentation we had questions about accountability. Mr File, to whom do you consider yourself accountable?

Mr File: I figure I am accountable to the workers I represent.

Mr Wildman: So management is accountable to the owners of the company, the shareholders and so on.

Mr File: Certainly.

Mr Wildman: You are accountable to the employees and the members of your union.

Mr File: Yes, I believe that.

Mr Wildman: You do not consider yourself a person who is not accountable as a union representative.

Mr File: No, absolutely not. I am accountable to those people I represent. I am accountable to my children, to make sure that I work in a safe workplace and can provide them with a satisfying life for the time they live with me.

Mr Wildman: One other thing: On page 3 of your brief you talk about the restriction and the interpretation of a work activity as now proposed. In your view, if that goes ahead and is passed, you say that is a step backward. Would that make this legislation less effective than the current legislation before the new bill was introduced?

Mr File: I believe it will. An example of that is a workplace in Brantford called TRW. It is predominantly women. They make electrical parts for the automotive industry. A high number of the claims I deal with as the workers' compensation representative in the local are from that plant and they are repetitive strain injuries: carpal tunnel syndrome, problems with neck and shoulder. We have had some success in women

refusing to do work with equipment that did not feel comfortable in their hands, with stools that were not at the right height and with workstations that were not quite so.

Under the current legislation we have had work refusals that were upheld by the officers and things were straightened out. Under this new legislation the activity or the ergonomics of the workstation will not be covered. We will be stepping back from that and those women who have not been injured yet will now be subject to these repetitive strain injuries.

Mr Dietsch: In terms of your involvement in the workplace, how many stop-works have been put forward?

Mr File: In my particular workplace, none.

Mr Dietsch: None. Have there been any you are familiar with the people you represent?

Mr File: No. I only deal with those within my own specific workplace, so I would not know if there were others.

The Chair: Mr File, thank you very much for your presentation. The final presentation of the morning is from the Canadian Union of Public Employees, and coming to the table is an old friend of mine from Sudbury, Bill Brown.

Mr Brown: Hi, Floyd.

The Chair: Gentlemen, we welcome you to the committee this morning. The next 30 minutes are yours.

CANADIAN UNION OF PUBLIC EMPLOYEES LOCALS IN HAMILTON- WENTWORTH, HALDIMAND, HALTON REGION AND BRANTFORD

Mr Brown: I would like to introduce my two fellow compatriots. On my right is Ed Thomas. He is vice-president of Local 5 which is the major CUPE local for outside workers in Hamilton and the region. On my left is Brother Clairmont. He is the vice-president of his unit and also happens to be the chairman of the health and safety committee for the inside workers of Hamilton, which is one of the larger locals for CUPE in this area.

I am not going to read through the brief. I would like to talk to the committee for a little while and I would like to get in some dialogue with your people.

First, I would like to talk about the inspection of workplaces by your inspectors. I agree wholeheartedly with the comments earlier from a committee member who said, "We have a lot less inspectors looking after the workers than we do looking after our forests and the animals in those

forests." We do not have any quarrel with the number of inspectors doing that. We do have a real quarrel though with this: If you are asking inspectors to do the job, two things should happen: (1) There should be enough of them; (2) they should be well trained; (3) they should be neutral.

I gave your committee a couple of letters sent by this union in regard to a fatality of a brother in Local 5. I can tell you that Local 5 members and the members generally of CUPE in this area found that inspector to be very one-sided in his attitude. In fact, if you read the letters that were sent to the Minister of Labour at that time, the inspector clearly states, in our opinion, that his main task was to show loopholes for the employer's representatives to climb through.

Never once did he really look at what the job was about. We say his job was to review that accident, to come up with recommendations and if there was someone failing in his duties on that work site, some charges should have been laid. I can tell you that no charges were laid. It was a disgrace from beginning to end. In our opinion, this cannot continue to happen if you are going to ask our people to join in, in a co-operative spirit, in safety in the workplace.

It is not a one-sided thing. This should be a group effort. It should be an effort between the employers and the employees and whether a union is onsite—I do not think unions have been found not to be doing their job.

A little bit earlier on, one of your committee members said, "What happens if a worker does not respond to using safety equipment and to acting in a safe manner?" I say quite openly that if that worker continues to do that and puts his or her own life in jeopardy, or another worker's, he or she should not be dealt with any differently than an employer who goes on a track record of continually breaking the act and not having anything done to him.

It is like the old saying. We all drive on the highways—I am as guilty as anybody—and if there was not a cop out there stopping me from speeding, I would be speeding every day. There it is. If you are going to make this act work, you have to put enough inspectors in the field. You have got to train them correctly, not just initial training but updated training.

One of the problems I see in the workplace is not just physical harm, but environmental harm. A lot of our people, I say, right now are being injured, are dying, not because of a physical involvement in the workplace but because of the chemicals they are using every day.

In fact, talking about chemicals, one of the few work stoppages we had was because of chemicals being used. There was not adequate protection for the workers and the workers did not realize the extent of the fumes that they were inhaling from laying tiles in a workplace. The upshot of that was that a worker who had already left the workplace collapsed at the wheel of his car. That is an ongoing process right now, as to what brought him to a state of unconsciousness. I would say to you that it was the chemicals, unfortunately, that he was using.

If we are going to look at this problem as we should, it should not be an us and them. I have heard some briefs here this morning where it looks like we are taking sides. Safety is not a side issue.

Let me give you a tragic happening that I was involved in many years ago in Elliot Lake, when I had to go to a young woman's home at three o'clock in the morning and tell her that unfortunately her husband, the father of three children, would not be coming home any more. I can tell this committee that if a few people had to do that, your ideas about safety would be firmly entrenched in your brains. That happened to me in 1958 and I can remember it as clearly as yesterday, having to do that task. I am telling you that I never want to have to do that again.

Putting aside the fact that we kill workers and workers get killed, there is another element too. It is the worker who does not get killed but gets terribly injured, badly injured. In my observation over the years at the Workers' Compensation Board, it has not been the most humane treatment of workers. Invariably they find themselves cut off from benefits. They find themselves victims, if you will, of the war of attrition in the workplace.

In my opinion those workers have to have a voice and that voice should surely be through your inspectors. If we do not trust the inspectors, then we do not have a hope in hell of making the workplace a safer place. This is a triparty effort: it is the government, the employer on the other and the worker.

We have to realize that many workers in this province do not have unions working on their behalf. For instance, if it was not for many unions, your workplace hazardous materials information system legislation would not have been as effective as a lot of politicians, I believe, feel it was. In many instances we had to force employers to do that very task of going around and finding out what chemicals were in the

workplace. Many employers did not do that voluntarily. They had to be forced to do it.

Let me say to you as a committee that laws are not made for the people who abide by them. Laws are made for the people who will not abide by them. Locks are made to keep the good people out. Locks do not keep a burglar out; he breaks in. What I say to you is that when I hear employers coming to you and saying, "We do not need this legislation because we are a bunch of good guys," I am not worried about the good guys. I am worried about the guy who does not care.

1210

Equally, if a worker puts himself in that position, he should not be treated any differently than the boss. If the boss breaks the law, he should be nailed. If a worker works unsafely and jeopardizes his life or others, he should be treated in the same way. On the other side of the coin, though, if a worker believes that the place of work is physically dangerous to his health or that the chemicals he is working with are dangerous to his health, then he should have the right to put a stop-work on that site right away.

It is ridiculous to say we need someone else to make that decision. I think the worker can make that decision. The facts hold true that in two jurisdictions in the world where that right is firmly entrenched with the employee, in the state of Victoria in Australia and in Sweden, the record does not hold true that they get a lot of work stoppages.

In fact, over the years that they have been in, and your committee can certainly read them in our brief, the actual work stoppages in those two countries have gone down. The reason they have gone down is that I think with that right there goes along another part of the right. Obviously, the employer, knowing that they have that right, is going to make that workplace safer.

Let me just share with you some of our concerns in CUPE. We have a lot of our people who are not really firmly covered by your act, people who work with the responsibility for others in the nursing homes and the hospitals.

I am not going to repeat the inspector's name in front of you, but I can tell you I had an occasion a couple of years ago to deal with one of your inspectors and a couple of times, if I could have got my hands around his throat, he and I would have been—because he did not care about the fact that we were trying to do something that, in my opinion, was quite right.

Let me just give you the outline. We have people who look after people who unfortunately

cannot look after themselves. One of these clients was found to have hepatitis B and was an active carrier. Most of the people looking after this gentleman unfortunately were women, and many of them were young, of child-bearing age.

I could not even get that employer to give us the fundamental and the basic requirements of looking after that particular patient with the proper protection. When I checked with your inspector, he did the best gandy dance possible. I think that he would have made an excellent skater for the Maple Leafs.

Suffice it to say I had then to take the other action, which is not pleasant. I had to go to the papers and go that route. I would have had a lot more faith in that inspector had he come to me, gone to the workplace and made the same observation as I did. A few fundamental protective garments was all we needed to protect the interests of a lot of workers who were doing a tremendous and valuable job for our society, that is, looking after people who cannot look after themselves.

Those are a couple of the items that I see are the problems with the system, but I think the fundamental system has to be that no one should ever be asked to put his life in jeopardy or the lives of others in jeopardy for production. I just cannot understand why anybody in his right mind would ask someone to do that, but unfortunately, as I said earlier, laws are not made for the people who obey them. Laws are generally made for people who break them.

As I see it, if we water down this legislation, you will have great difficulty in asking the labour unions especially to be a party to anything in the future. As many of my predecessors have said to you, I think we made a deal with the government of the day. I suppose if we had a right to write the legislation, we would have written it in different terms, but we accepted that as a compromise deal, if you will.

In many instances, guys like myself took a little bit of a beating going back to the local unions and saying, "Well, it's not what we want but it's better than what we've got." If we take one step backwards from this legislation now, I would say you have lost for ever the loyalty of the trade union movement in this anyway. I always feel very sorry for the unorganized worker, because really there are not too many people speaking on his behalf.

When I get to the right to stop work, I think that if we train safety people well, if we train our committee people well and if we train the employers' representatives on those committees,

we should not have any fear about whether a worker is going to ask for a workplace stoppage illegally. The facts just do not prove it.

In fact, if you look at the workforce in Ontario, it is one of the most productive in the world, and I think the productive workers generally are pretty proud of the fact that they work hard. They work hard for a good standard of living for themselves and their children. I think if we take that right away from them, we are taking a major right away from individuals in the workplace.

I am not going to read from this brief for ever. I would like to get in some dialogue with your committee as to how the members feel about the safety in the workplace and how they would like to be down in that workplace working. One thing I would like to do some time is to take some of you committee people into some of the places where people work daily. I think then you may get a better look at the safety and health than going around the province talking to guys like me because, you see, I am lucky now. I am a union representative. I work a lot of hours, but I do not have to work unsafely any more.

The Chair: Thank you. Mrs Marland has a question.

Mrs Marland: It is very true what you say about going into the workplaces and having a different sense of understanding of what the issues are. I certainly share that thought, based on the experience that I had on this committee going into 17 mines around this province, and I heed very closely that comment.

I think the problem that we have today in protecting the health and safety of workers is that regardless of Bill 208, we do have examples, and you have just given some very clearly, that our existing legislation is not working. When you talk about a fundamental system that exists today, and the fundamental system that exists today is certainly better than it was 20 years ago—this morning, I thought it was interesting that I got booed, along with everybody else, and then one of the deputies said that with Bill Davis and his government, at least you knew where you stood and they did not go back on their word. I accept that as a compliment to our party at least.

If there is a problem with the fundamental system, and it is in some cases related to inspectors and the fact that what we have is not enforced and maybe what we have does not have enough punitive remedy that the workplace needs to have those systems of safety enforced, what do you see as a solution? There is no point in passing another bill, especially one that is controversial as this is on both sides. Obviously,

the employers do not like this and the employees do not like it. What do you see as a solution rather than continuing to have laws, as you say in your own words, that are not a remedy?

Mr Brown: First of all, let me say that very recently a judge actually had to increase the fine asked for by the department. When a judge has to do that—and remember, he has to at least appear to be neutral—I think that is a real tragedy.

I think unless you are going to put teeth in that legislation, if a corporation is completely mundane to the fact that its workers have been injured—and you have all the statistics company by company—then one great thing, if one of those directors went to the Crowbar Hotel for three months, I am telling you, you would never have a problem with that corporation again.

Let me just tell you that in Sweden it is not the line foreman who gets nailed, it is the chairman of the board. He is the guy who goes down to the Swedish courts and gets dealt with, not some lonely little foreman who is going to be the fall guy. What we have to do is say to the guy at the top, the buck stops there. Like the American President once said, “The buck stops at my desk, not someone else’s.” That is what you have to do.

You put in the legislation that the guy who owns the company is the guy who carries the can if something goes wrong. I will tell you something, when something goes wrong with the shareholders, when they do not make as much money, those boys are on the hot seat. But when a couple of workers get killed, when you look at the inquest, it is usually the foreman or the assistant manager who gets nailed. If you nailed the guys at the top, then you would see a different attitude toward safety in my book.

If workers continually work unsafely, they should be dealt with as well. I am not one who is going to speak out of both sides of my mouth. If workers continue to work unsafely, they should be disciplined. Likewise, if the managers of companies know—and you people know, the statistics prove it; we have records; you know the accident records of different companies—then they should be nailed. It should be the guy at the top, not some foreman who really probably does not have any say in the matter in the first place. That is my opinion, and I think the fines should fit the problem.

1220

When a judge has to up the fine on the request of the department, that really tells me something. I think also your inspectors have to be neutral and they have to be backed up with the proper action. It should not be some lonely inspector out there if

it is a violation; you should have experts to go in and deal with that problem. I do not believe that any one inspector can really do the whole gamut of his job. It is just a totally impossible thing for one person to have that much knowledge.

You are going to need it done industry by industry and you are certainly going to have people who are affected in the physical side of the workplace and also people who are able to bring about the chemical side of the workplace. My biggest fear is the kind of chemicals that we are asking workers to use now and no one really knows what they are doing. Many of them are not properly tested. That worker is the one that I really feel sorry for because that is the one that is being slowly killed, not the one who gets killed in a hurry, boom, it is over. But I really feel sorry for workers that go day in and day out, working with chemicals of which we do not know the full ramifications. They get sick, it carries on.

I remember a few years ago, when I was with the United Steelworkers in the mines, we had one hell of a job to fight with the WCB to get them to recognize that guys were dying of cancer; it was work-related cancer. Now, we fought that battle and got that one over with but, see, that is the problem. We should not be fighting these battles, we should be working together to stop that in the first place. I would say if we stop fighting each other and worked in co-operation, we could probably get rid of 50 to 60 per cent of our problems.

Mrs Marland: Would you agree that, to stop fighting each other, it would also follow that we should stop tarring everybody with the same brush. I know from a personal experience last summer, a company where my nephew got a steel siding staple ricochet back into his eye and he lost the sight of that eye. That particular employer—he was a young kid—had adult workers who made fun of my nephew when he asked for protective glasses because that is the way they worked on that for that company and on that job. The old guys that had been working there for ever did not bother with protective eye gear. When he asked for it, they just laughed.

You are agreeing with me that, first of all, in order for something to be enforced, it has to have a penalty that fits the bill. I think your example about going to the top guy in the corporation is followed out by our spills bill legislation, where we now do go to the corporate heads who are ultimately responsible. But would you agree, at least, that not every employer is a bad guy? Sometimes we lose quite a bit by passing legislation that tars everybody with the same

brush. Maybe what we should be looking at, to use again your own words, is a fundamental system where, sure, inspectors have to be neutral, otherwise they do not fulfil their responsibility even to the employers.

Mr Brown: Right.

The Chair: I think, since we have agreement between Bill Brown and Margaret Marland, we should not even tempt fate by allowing Bill to answer that question.

Mr Mackenzie: To some extent, dealing with the same question, one or two of the management briefs before us have used as part of their defence against enacting Bill 208 the argument that, "Look, we cannot even get workers to wear or abide by the safety equipment or legislation that is there."

I find it a facetious argument that should not be coming to this committee at all because I think really it is an argument for management. If there are true contract negotiations or, through the law, specific protection—sure, I know there are people that are going to speed and, whatever the situation is, disobey some laws. But that is a management responsibility if it is clearly in their collective agreement. I think it is a phoney argument to bring before this committee.

Mr Brown: On that, Bob, I think that education is the thing. I think the worker is crazy who takes a chance on losing his sight. I am not saying for one moment—I suppose when I was in the plant in my younger days, I did not take some risks too. The thing is that I think that goes with on-the-job training. We are certain that it is available to all employees and all employers. Unions certainly are involved in on-the-job training. It is an ongoing problem like getting them to wear things. I have heard all the excuses for not wearing glasses, that they steam up and all of that. Well, when your eyesight goes and you have got to wear prescription glasses, it is funny how they tend not to steam up quite so much.

It is an ongoing process, but again there is a part of the collective agreement that says if a worker does not show up for work, he gets disciplined. There are lots of ways you can correct that situation. I am not talking about being overly punitive with workers, but I think you can encourage workers to use safety equipment. We should sit down and discuss safety equipment, and maybe sometimes we should discuss the use of that equipment, because I think the people who use it all the time are probably sometimes more able to make it work better. I think that is what you do in a situation like that.

Mr Mackenzie: Incidentally, just in case anybody gets the impression that we have totally won the cancer in the mines issue, we got a selective number of pensions that were approved, so we are halfway along after an awfully long battle in that particular area.

One other thing I wanted to raise with you is that one of the comments from the previous Minister of Labour, Mr Sorbara, in defence of the current bill, and I have quoted a number of these over time, also hits at the fundamental issue that we are debating here. He said, to use his quote:

"Either we can hire every fourth person in the province to serve as a labour inspector or we can begin a process which, in the fullness of time, when fully in bloom, will give us a system where the workplace parties themselves are taking more responsibility."

I am wondering what your feeling is about the internal responsibility system and the fact that, in my opinion, workers and labour took a bit of a gamble when they decided we would buy the bipartite approach because in effect it did put the two workplace parties in total charge of the problem and of solving that problem in terms of health and safety in the workplace; that is why also there are certified people from both sides on the committee.

It seems to me that labour has made a major concession in saying, "Hey, we're willing to take the risk of it being between us and management." They have been the traditional adversaries, and to throw in a third party or a so-called neutral person, if you can find one, really takes us back to what is currently in place when you negotiate a contract; generally speaking, that is between the two parties in the workplace.

Mr Brown: One of the things I find very strange is the fact that the unions do have a tremendous amount of very capable people on staff, they are experts in the field of safety, and yet we really have great difficulty in getting them into the workplace. Some employers just flatly refuse to have them in there; and some do not, I am pleased to say. Again, I am saying it is not always the good and the bad guys.

The thing is that if you let us settle our own problems in our own way, and one of those problems we see is having the right to bring in experts, then unless the committee people get really good training, it is really unfair to pin a badge on someone and say, "Go and do an inspection of the plant." They are not trained to see the problems; if they were, they would be getting those problems every day.

The one thing is really good training of both the management people and the union people. That can certainly be achieved. Over the last few years our unions have trained 6,000 people in safety and health, on our own. That is without anything the government may have done through WHMIS; that is our own training of our own people.

One of the problems is that unless you train people properly, they are not going to be able to do the job, and those people will feel they need experts brought in. It should not be just the employer who has the right to bring in experts; I think we should be allowed to bring in experts as well.

It is very funny. When we are doing job evaluation, we bring in experts from CUPE. If we are doing any form of evaluation of our workers, we bring in experts. When we are talking about safety, which to me is the most important, fundamental thing in the workplace, suddenly the union cannot bring in experts. To me, that is absolutely asinine.

I think it should be in the bill that if the committee feels there is a need, then the expert should come in vis-à-vis the government if it needs to be an inspector, vis-à-vis some expert from a safety association from management, or if the union wishes to use its own people, they should come in too. To me, that seems to be the way we should go.

Mr Mackenzie: Very briefly, one final argument I have found astounding that has been made here and in the last few days is that by producing certified worker reps who have the training we have all of a sudden developed an élitist group. I have never heard such a putdown. Usually I have heard management arguing that what we need is more education. This is the first time in my life I have heard an argument presented to a committee that says, "Hey, we give them the extra training so they are capable of doing this and you've got an élitist group." I am just wondering what your comment is on that.

Mr Brown: That is a sad scenario, really, because I am sure they train us to do the work for production, and they think that is great. I think if someone is an expert at safety, then so be it; he or she should be used and listened to.

Again, I am saying that not all employers are in that mode, because I know that in some of our local contracts and our local employers, the management has been very co-operative and in fact in many instances have said to us, "We're very pleased that the workers are now becoming technical experts; that's good." I just do not

believe that is generally true of all employers, and it is a little bit sad that people would come in front of this committee and make that observation. It is very sad.

1230

The Chair: I wonder if we could move on to Mr Fleet.

Mr Fleet: Before I refer directly to the brief, I must say in respect of Mr Mackenzie's statement about the notion of somebody being élitist because he is more educated, I totally agree that suggestion that has come before the committee has struck me as being ridiculous.

I would also like to say to our presenters that I very much appreciated the oral presentation and in particular the written presentation. It is an excellent summary of the broad union position going through, in very clear language, section by section. I can assure you that it will be very handy as we deal with this during the course of the hearings.

You have also indicated something else I quite agree with, and there is a provision in Bill 208 I would like to draw to the attention of everybody here. You made a reference to the fact that senior management should be responsible for the issues of safety and that safety has to start at the top. I completely agree with that. Section 14 of Bill 208 proposes a new section to the new act that says:

"19a. Every director and every officer of a corporation shall take all reasonable care to ensure that the corporation complies with,

"(a) this act and the regulations;

"(b) orders and requirements of inspectors and directors; and

"(c) orders of the minister."

In the existing act, section 37 provides that anybody who contravenes the act, upon being found guilty of "an offence and conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than 12 months, or to both."

I will tell you, speaking personally, that were there an instance of a chief executive officer, for example, of a corporation who knowingly permitted a situation to occur and it led to a death or very serious injury, I for one have no hesitation in saying that kind of person ought to go to jail. It is at least as serious as environmental matters where we put people in jail when there are the worst-case scenarios of accidents occurring. I believe that is very important. I for one believe that section is definitely going to be in this act.

In addition to that, another provision in Bill 208 proposes to raise the maximum fine for corporations to \$500,000. With that kind of provision, there is no such thing as a judge having a lack of ability to really send a message to the shareholders as well and to everybody in that corporation. The capacity will be there to really hit hard at the bad actors.

I completely concur with the notion that the issues of safety have to start at the top of a corporation. We have heard some examples being brought forward where corporations have not been doing that. I think the purpose of this act is designed to get at those problem actors. For whatever reason they are doing what they are doing, it has to stop.

I very much appreciate your brief. I know that none of that has been put in the form of a question, but I am certainly open to any additional comments you might have in respect of these matters.

Mr Brown: I think the guy who is ultimately at the top should carry the can. I am sure he is the guy who is controlling that corporation and its production lines or how workers are going to perform. I am sure the people below him, the foremen, are only adversaries of the policies of the top. I think that if we are always going to let the guy at the bottom carry the can, then it is just not going to go anywhere. I would say to you that once one of those guys at the top gets nailed, then you are going to see a lot of other guys who may be thinking like him changing their opinions.

I concur. I think that it is very serious. I mean if we go out and shoot someone with a gun, we are charged with murder. But if a worker gets killed on a job in an unsafe condition, really not too much has been done in the past. I think that we have to realize that in a way it is murder. When you hire someone to do a job for you and you knowingly know the place is unsafe, both physically—and I think unsafe environmentally is just as important. If someone knowingly allows someone to work with chemicals he knows are injurious to that person's health, I think he is just as guilty as the guy who allows a ladder to be incorrect, a scaffolding to be incorrect or anything else like that. I think they both go hand in hand. Yes, I think you are right; the guy at the top should ultimately carry the can.

The Chair: Mr Brown, Mr Clairmont, Mr Thomas, thank you very much for your presentation. I think I would echo other members' thoughts if I said that we all agree with what Mr Fleet said about the thoroughness of your brief and that is the kind of thoroughness that does help

the committee when we get into the clause-by-clause considerations. Thank you very much.

Mr Brown: Thank you, Floyd.

The Chair: Before we adjourn, Mr Wildman has a comment.

Mr Wildman: Just following on what Mr Fleet said, I would just flag something for when we get to clause-by-clause. I appreciate what he said about maximum fines of \$25,000 and perhaps increasing those. I wonder if he would consider putting minimum fines in the legislation as well to ensure that even though the maximum fine is now \$25,000, the average penalty when it has been levied by a court has been somewhere in the neighbourhood of \$2,500 to \$3,000. Perhaps

we should be putting in minimum fines of \$10,000 to \$15,000 as well.

The Chair: I can feel a proposed amendment coming. I suggest to members of the committee that we have distributed a brief from the Ontario Public Service Employees Union. It is not on the agenda, but it is a written presentation. I would encourage members to read it.

A reminder that there is a restaurant on this floor that has a buffet. We do have to be back here at two, which is not a long time when you get in a lineup. We will try to start as close to two o'clock as possible. Leave your material here, if you like—nothing too valuable but leave it here. We are adjourned until two o'clock.

The committee recessed at 1236.

AFTERNOON SITTING

The committee resumed at 1406 at the Holiday Inn, Pavilion Room, Hamilton, Ontario.

The Chair: The standing committee on resources development will come to order. We have a very full afternoon of presentations, so we had best get started.

The first presentation of the afternoon is from the Hamilton and District Chamber of Commerce. If those people would take their place at the table, we could start.

HAMILTON AND DISTRICT CHAMBER OF COMMERCE

Mr Rafferty: We are in fact from the Hamilton Chamber of Commerce. To my left, Doug Swaykoski is the chairman of the chamber's industrial relations committee. To my right is Lee Kirkby, who is the executive director of the committee.

The Chair: And you are Mr Rafferty.

Mr Rafferty: I am Liam Rafferty. I am also a member of Mr Swaykoski's committee.

Just a small matter of procedure before we start. I heard your remarks about a very full afternoon. I am not sure how long we are permitted in the making of our address today.

The Chair: What we have done is, we have scheduled all presenters for 30 minutes, and that 30 minutes can be used either by the group making the presentation, or by reserving some of the 30 minutes for an exchange with members of the committee. It is entirely up to you, but we do try and stick to the 30 minutes.

Mr Rafferty: We will not have any difficulty on that score today. Unlike most of the briefs I have prepared, this one actually is brief. We can proceed from there.

I would like to make a couple of introductory remarks about the committee. It was established in 1845. You will see this in the second paragraph of the material with which you have been provided.

The chamber of commerce has the responsibility and obligation to act as "the primary voice of business" in the Hamilton commercial area, and at the same time, we assist with the municipalities and other community agencies in promoting the welfare of this area. We are the largest single organization representing business interests in Hamilton-Wentworth, and the information, the position and the representations you will hear today have been the product of some long

consultation and development by members of the chamber over the past year, as the bill has seen different forms.

[Failure of sound system]

Mr Rafferty: I am not sure if that is a good sign or a bad sign. I am back on now. That is certainly one way to deal with the dissent, anyway.

Three points which are of real importance to the committee: I suppose everybody who comes up here today to make submissions can say there are undoubtedly a number of issues in the amendments which every party could deal with, but we wish to draw your attention to three which are of particular concern to the interests of the employers who are represented by this agency.

The first is one in which we certainly do, and I suspect others in the community do, suffer from a certain lack of information, and that has to do with the new proposed agency which is going to replace the existing agencies which are funded through the workers' compensation system and are established under section 123 of the Workers' Compensation Act.

Our primary difficulty with the proposed composition of this committee under section 10 is that the committee takes on largely, in our view, a political tone by virtue of its bipartisan structure. That bipartisan structure is not matched in the existing establishments, the most obvious of which are the Construction Safety Association and the Industrial Accident Prevention Association, two of the agencies—I understand there are nine in total—representing various sectors of the economy.

1410

There is a constant sweep in government, and I think we see it in industry as well, moving from decentralization to centralization. First and foremost, our concern with the new workplace agency is one of accessibility. Is the agency one to which the previous clients, if I can use that word, of the nine associations, are going to have the same degree of access?

In fact, if you look at the proposed amended section 10 which will create the agency, you will see a list of functions which, while harmonious with those functions in existence now through the nine safety associations under the Workers' Compensation Act, also have, of necessity, by virtue of the membership of the committee, a political dimension. The political process which

exists in the Legislature is one which, by design and by intent, is intended to hear and deal with a wide spectrum of use.

Is that political process—and we see parties who, at times at least, are typified as having competing, not complementary, interests—one which is going to actually realize on its mandate? Second, is it going to be accessible? Third, is it going to be able to address the concerns of the individual industry sectors which previously have been serviced by the committees now in existence?

Is the bipartite representation one which is going to serve the interests of unorganized as well as organized labour in this province? Recognizing that we have probably a tripartite relationship when we talk about health and safety, but at the very least, in terms of this committee, a bipartite relationship, are we going to see representation on the nonunion sector, which as we note in our brief, makes up approximately 70 per cent of the working population of this province who are affected by the act in its present form and in its proposed amended form?

We have concerns in that respect. An old axiom that comes to mind is, "If it ain't broke, don't fix it." The question of the adequacy of the existing associations, if it is to be addressed from the perspective of the accessibility of labour, can surely be addressed by maintaining the structure, not throwing the baby out with the bathwater.

The creation of this new agency, in our submission, unduly centralizes an authority which is, in our submission, responsive to the needs of industry in the broad sectors of the economy which we see today. In our submission, decentralization and not centralization of authority should be the watchword.

Second, in terms of the formation of the committee, the promulgation of safety information is surely a neutral function. There is an agency in Hamilton, which may not be an agency very much longer, and that is the Canadian Centre for Occupational Health and Safety, which has a broad coalition of interests represented in its governing structure. But that agency is not charged with fulfilling a legislative mandate; that agency is charged with generating the kind of research information which its clients find of interest.

This agency, first, by virtue of its new proposed composition takes on, again, by virtue of its structure, a political, in our submission, rather than a functional approach and, second, in its present composition, as we understand it, will

be unduly—and we do not use that word in a prejudicial sense but in a numerical sense—representative of organized labour vis-à-vis unorganized labour. It is our understanding that, of the six labour representatives, four will be nominated by organized labour and two will not. As I said when I began my remarks on this point, we are suffering from a certain lack of information on this point, but the information which has come to us to date indicates that is the expected shape of this new agency.

I notice there are some questions from the members. Perhaps I could entertain them at the end of the remarks.

I would like to move on to the areas which we would present to you as, in a practical sense, our two most pressing concerns. The first is the worker refusal right. The present procedure under the Occupational Health and Safety Act is that in subsection 23(3) the worker has a range of entitlements to refuse unsafe work:

"A worker may refuse to work or do particular work where he has reason to believe that, (a) any equipment, machine, device or thing he is to use or operate is likely to endanger himself or another worker; (b) the physical condition of the workplace or the part thereof in which he works or is to work is likely to endanger himself; or (c) any equipment, machine, device or thing he is to use or operate or the physical condition of the workplace or the part thereof in which he works or is to work, is in contravention of this act or the regulations and such contravention is likely to endanger himself or another worker."

We have looked at the proposed language of the amendment, which relates to the proposed right of a worker to refuse a work activity which is, in his view, likely to endanger the worker or another worker. Every time we consider the breadth of that provision—and our first concern in interpreting this legislation is that it is remedial, and the Court of Appeal has said, in dealing with this legislation, when it has found contravention and has fined to the maximum limits allowed by the act, that this is a public welfare statute which ought to be given the broadest possible construction to further the express intent and public policy of the Legislature and to promote what the Legislature said is a public good.

As we read the phrase "work activity," what that allows a worker to do is make an assessment of the adequacy of workplace design which goes beyond the suitability of an individual piece of the production process with which he or she works. The use of the words "work activity" is a fairly neutral phrase. Read at first glance, you

could arguably say that it means much the same as what I have read to you here. But every word in the statute has to be given independent meaning where the words used are different from other words in the same section.

"Work activity" must mean something different from dealing with an individual piece of the production process while identifying a workplace area and saying: "Look, that floor is covered in oil. I cannot work on there. I won't be able to maintain my footing," for example. A work activity goes to the heart of what it is the worker is asked to do in the workplace. In that regard, what it provides the worker is a right to refuse the actual implementation of the production process.

We see that as a dangerous grant of authority. When we make those remarks, the response we are accustomed to dealing with in reply is that you are impugning the character of those who work for you. Everyone in the workplace is human. In this statute, the worker need only have, in the first instance, reason to believe there is a risk or danger. After the health and safety inspector from the ministry attends, the worker has to have good reason to believe, a better foundation for his belief.

I can tell you, having dealt with attempts to deal with what were perceived as abuses to this section, establishing the lack of good faith necessary to say to someone who has abused the provision: "Look, you've gone too far. You've misused your authority and you have put the employer in difficulty, put the production process in difficulty and perhaps," depending on how the work activity fits into other work activity, "put the livelihood of your co-workers at risk." That is a difficult proposition to deal with if it is to be approached from a disciplinary point of view where abuse can be established.

In a more philosophical context, a work activity is the essence of what is being done. When I used to load transport trucks, I had to drive forklifts and carry around carcasses of beef. That was some time ago. The hard hat is not on my head any more. But the authority you have granted me today allows me to say, "Driving this forklift presents a risk because I might run down one of my fellow workers." It says, "Taking care of the production process, moving the carcasses into the transport truck, presents a risk to me or others because I might trip and fall or I might injure one of my co-workers in the process."

It does not deal with a specific fault which can be identified and looked at by an inspector, an independent third party. When you say, "This

punch press is not functioning," it is a fairly easy thing to demonstrate that is the case. It is also fairly easy to adjudicate, from a third-party point of view. This provision calls for a level of judgement which even those acting in good faith are likely not to exercise as expertly as they ought to.

Second, from an adjudicative point of view, when the Ministry of Labour inspector is called in to resolve the situation, what does the Ministry of Labour inspector do when he comes in on the spot, dealing with his 15th attendance of the day at a workplace? Does he say: "I've examined this production process. I have sufficient knowledge of production engineering, chemistry, physics, health and safety," whatever the case may be, "and I can, in a five-minute view, judge this production process, this design of the work in the workplace, to be insufficient"?

The problem is that the consequences of exercising a right to refuse a work activity do not just deal with potential health and safety risks. They also deal with risks to the integrity, the functioning of the enterprise. As I said before, if a worker who refuses to perform a certain work activity is key to a production process, whatever it may be, in my situation loading the truck—if I do not load the truck, it does not get to the market and it does not sell the goods. If I refuse to perform that work, how many other people in the workplace are affected by that?

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Even in the most bona fide of situations where there is error in the end, the damage is not just an isolated damage. The damage is one which has consequences which may affect persons who neither had thought of nor interest in exercising that right to say that a work activity is unsafe.

It is a difficult standard to administer. It is entitled to be given a full and broad reading. Its intent, broadly construed, is to allow someone to say: "I do not think you should design the flow of work that way. That is unsafe and I'm not doing that." From a management point of view, and we are representatives of business, that is a management prerogative ultimately, which is now a matter for debate and adjudication. As a philosophical issue, looking at the shifting or the granting of that prerogative to nonmanagerial people, it raises some of the same issues we will discuss in terms of the certified worker's right to shut down operations. That is a confusion, in our submission, of the role of the employer in its supervisory capacity in the workplace and that of the worker.

We have to look at all of these comments our group is making today, not in light of an abstract clean slate but in light of the fact that there are already, in workplaces where you have 20 or more people—and we will just leave the construction side of that alone for a moment. Mr Nolan, this morning, I understand, certainly left you with no uncertain impression of where the construction interests lie. But purely on the industrial side, 20 or more workers in the workplace, which is not an office or falling into one of the exclusions, already have a health and safety committee where these kinds of issues, these very issues, are brought before the parties and dealt with. There is already an existing mechanism to bring perceived difficulties, the unsafe work situation, to the attention of the Ministry of Labour inspector.

We are not operating on a clean slate, where workers have no recourse for their legitimate concerns with endangerment to their health and safety in the workplace. But the next step that is being proposed by this legislation goes past individual, definable, ascertainable difficulties and goes to questions of judgement, industrial design, workplace design and efficiency which, in our submission at the very least, the health and safety inspector who comes in to adjudicate and resolve is not going to be able to answer in the time that is available to him.

Finally, the question of work stoppage is undoubtedly one which has been a subject of remarks as this committee has made its travels around the province. This is perhaps the single issue which certainly draws the most attention when you first read through the proposed amendments. The reason it does so is, in contrast to the refusal rights for the individual worker, the amendments proposed deal with an activity and, thinking about this in the context of a unionized workplace, for example, deal with an entitlement of the certified committee member representing workers to make an evaluation in a general sense about whether the act and the regulations are being complied with in a particular work environment.

As a first point—and we will get to the question of the appropriateness of this delegation, which is what I call it, I think what this chamber presents to you today, it is—leaving aside the question of the delegation of power, when you look at the Occupational Health and Safety Act, when you look at the regulations, you see a legislative record which requires, in our submission, years of study to master, to fully understand. There are indexes, there is a table of

contents, you can flip through the regulations and point to a provision that, in your view, either is or is not being complied with. The degree of familiarity with this act and these regulations that it would take for any certified member of a committee, be he a representative of the employer or employees, is, in our submission, not available.

The complexity of this act, the complexity of the regulations, the chemical standards, the industrial standards, the engineering standards, when you read through the regulations you see these things. Directions expressed in the formula of chemistry, engineering and, at times, physics, requiring expertise in a wide range of areas, construction and industrial; these kinds of regulations in this legislation are not something that can be easily applied in a textbook fashion by people who are going to make a judgement all of a sudden that this particular workplace does not comply with the act and the regulations.

I made the remark before that when you are listening and evaluating our comments, do not forget that we are not operating on a clean slate. We already have substantial remedies and avenues available. What is being proposed in this legislation is that a party is going to exercise functions which are the policeman's functions, police officer's functions, in saying, "In my opinion, this is a violation of the act."

Second, that same person is going to say, now having decided that there is an offence, "I am going to act as the judge and I am going to say, in my view, the appropriate action to be taken in light of this violation is that we shut down plant operations." Just by itself, our tradition in Canada, in the British legal system, has been not to mix the powers of enforcement and adjudication. This proposal does that.

The second thing this proposal does, which is of more primary concern, is that it grants to the worker representative, whether a member of the trade union or a member of an unorganized but nominated employee committee, a power to, in effect, exercise a degree of control over the workplace which is not available to the comparable level of supervisor with which that employee is dealing.

You can always use the big example to illustrate the point. The example that comes to mind most logically for us in Hamilton is the question of one of the steel foundries. Now, if the exercise of the entitlement to shut down a work area on the basis that a violation is perceived, now, not proven, if that authority is exercised in an operation the size of Stelco and in certain areas

where there is a degree of sensitivity to the plant shutdown—coke ovens come to mind; they are never supposed to shut down—if that authority is exercised, you are looking at, first of all, a question of practical compliance. Can you actually shut it down, having granted people the power to say it should be shut down, physically and safely? Second, should workers have that right?

Now, the government of the province of Ontario has made a proposition that that right should be vested in the worker. That right is not now vested in the worker. It does not, to my knowledge—and I would be interested to hear from members of the committee if they are aware of different situations—exist in worker health and safety committee constitutions established under section 8 and endorsed by the minister. It does not exist in collective agreements of which I am aware. It is a power which has to be legislated because it is a power which parties, through free negotiation and collective bargaining, have not provided for today. It is an extraordinary power and it is a power which, if mistakenly used, cannot properly be recompensed. If, in fact, the power is mistakenly used, whether in good faith or in bad faith, where is the remedy for the employer who has had production shut down for a day?

The employer, under section 24 of the act, is prohibited from reprisal, and the text of section 24 reads, "No employer, or person acting on behalf of an employer, shall dismiss or threaten a worker because the worker has acted in compliance with this act or the regulations or has sought the enforcement of this act or the regulations."

So where the power is exercised, either mistakenly or without bona fides, in the absence of good faith, where does the employer go? Where is the remedy for a day's lost production? Where is the remedy in the event that that loss of production endangers the ongoing livelihood of the enterprise and the other workers employed there?

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Finally, from a philosophical perspective, when the the province of Ontario says to one of the three parties in what I would suggest is a tripartite health and safety process, "We are going to give you the power to enforce our legislation," because that is what is being done with this grant of the authority to the certified worker health and safety committee member, "We are giving you the power to enforce this legislation," the reaction of the party that is left out in this process is, "Why am I left out?" In our

submission it is not proper, it is not fair, for the province to say, picking one party over another, "You have the right to enforce this legislation and administer at least a preliminary sanction exercising the authority of this legislation."

That power is a power that, in the normal course, is exercised by police officers in dealing with matters of a purely criminal quality or is exercised by the range of provincial offences officers to enforce all manner of provincial legislation, probably most notably the environmental legislation. But this is not the kind of delegation of authority that, in our submission, ought to go to one of two parties in the process, because it is creating, in our submission, a clear preference. The province is saying, "We trust the worker more than we trust the employer and we are going to make the worker our agent in preference to the employer."

The question of enforcement of the legislation is one that has always been, under this act, something that was going to have at least an initial starting point at the workplace level, but the way it has worked under this legislation to date is that where there is a problem there are two avenues: the health and safety committee or, in a serious situation, the Ministry of Labour inspector. In my experience the Ministry of Labour inspector is on the site on the same day, usually within two to three hours.

That enforcement mechanism exists today and everyone recognizes the legitimacy of the Ministry of Labour inspector because the Ministry of Labour inspector is employed by and is representative of the neutral third party, the government, governing by the consent of the governed of this province. That is a relationship of trust and it is a relationship that, in our submission, has worked.

This proposal, in our view, unnecessarily polarizes a workplace relationship. It lays the groundwork for mistrust. It lays the groundwork for unnecessary litigation as employers who perceive a bad-faith exercise of this power attempt either to recover damages or attempt to discipline the worker involved. It creates a potential, in our submission, for conflict, not co-operation in the workplace.

I will make a last point on this and then if my colleagues have anything to add, that is the time for them and we can entertain questions from this committee.

Lastly, and you see these remarks addressed in the text of our presentation, all of the explanatory material we see says that workers' compensation is becoming an unwieldy burden, that our accident experience is putting us in a deficit

position, which people variously describe as being somewhere between \$2 billion and \$6 billion in unfunded liability—

Interjection.

Mr Rafferty: I can appreciate that people want to disagree with me but I would appreciate it if they would let me be heard and then they can express their own comments.

The accident statistics you have represent a number of different workplace situations. There are accidents that arise because of either improper care of the workplace, improper common sense or because this act has been violated. This chamber of commerce does not support those who do not want to comply with this act and the regulations. Workplace injuries in this province and the statistics they represent also represent injuries that occur because a pre-existing injury that has nothing to do with the workplace is aggravated by a workplace process. Those kinds of injuries are also part of the workers' compensation statistics.

As well, there are injuries in the workers' compensation statistics that reflect purely an employee's error. Not negligence on the part of the employer, not a violation of the act, but pure, honest employee error, and we have decided since 1911, when workers' compensation came into effect in this province, that workers' compensation was available because of an accident in the workplace, not on the basis of who was at fault, employer or employee. That has been beyond public debate.

This chamber of commerce is not saying it should be part of the public debate, but the accident statistics that you have are not solely reflective of the employers' failure to meet the standards in the Occupational Health and Safety Act, and the Workers' Compensation Board does not differentiate, to my knowledge, it does not keep statistics that say, "These were actually the employer's fault; these were aggravations of pre-existing conditions; these were ones where we had to give the benefit of the doubt." That is the principle in the end. If you can't decide whether the workplace contributed to the injury or not, benefit of the doubt says we would rather pay the compensation than not. Those factor into the equation as well. And then we do not have statistics that say, "These were purely the workers' fault."

No one is denying that health and safety is an important issue here today. Health and safety is an important moral issue and health and safety is an important bottom-line issue for everyone—for the province, for the workers, for the employers.

Employers in this province have not prospered and provided meaningful employment and quality of life to the citizens of this province by ignoring the bottom line. Nor have they profited by behaving in a fashion which invites people to complain about their lack of humanity, their lack of morality.

The proposals here today politicize the health and safety process, in our submission. They unnecessarily create a relationship of antagonism in the workplace; antagonism and mistrust and to an extent—we use the word in our submission—expropriate a degree of managerial authority which has not been bargained for or agreed to by employers, employees and, where employees are represented, by organized labour in either the health and safety committee—I use the word "constitutions" loosely, but those working rules established under sections 7 and 8, or in collective bargaining.

In our submission, for the Legislature to do so today, to grant extraordinary powers to one of the two remaining parties in the process, creates an atmosphere more akin to adversarial proceedings than to a co-operative resolution of this pressing societal issue which is before all of us.

It is fine to come up and criticize. We also have some things that we would like to suggest to you as potential areas of consideration and courses of action. We urge you not to pass this legislation, in the areas we have identified, as now drafted. We do, however, have some things we would like to suggest to you.

The Chair: We have reached the 30-minute point in your presentation.

Mr Rafferty: Perhaps I am not as brief as I expected to be.

The Chair: If you wanted to make a very quick concluding statement, that would be fine.

Mr Rafferty: Thank you. First and foremost, we think this legislation requires another look. But if the powers which you have proposed are to be granted to the worker representatives, we would suggest modification in the following areas:

First, with respect to the power of the certified worker representative to shut down an operation where that worker representative perceives there to be a violation of the act or the regulations, at the very minimum there has to be a period in which it is open to that worker representative or potential worker representative to say, "Employer, when I look at area X, area Y and area Z, if I had that power today I would shut you down." At the very minimum, there has to be a period in which those things can be identified.

Second, from the work activity point of view, the same principle comes forward. Instead of saying, "Today you have the right to do this," provide for a period in which those problem areas which are to be identified are in fact brought forward. Allow time for remedy before you have the extraordinary circumstance of shutdown.

Third, do not forget that the health and safety committees are already in existence. Surely, they can provide a funnelling role. Surely, there should be warning in advance of the exercise of power like this. Surely, through the existing health and safety committee structure, there ought to be an opportunity to remedy before the shutdown.

We are not saying, in suggesting those alternatives, "Go ahead, make those changes and pass the bill as it now stands." So that there is no doubt, we are opposed to those issues, and in particular the refusal rights and the shutdown rights as we have detailed them. For the reasons already given, we just feel they are unwarranted and they are going to lead to conflict rather than conciliation in the workplace.

Thank you for your attention, Mr Chairman, and members of the committee.

The Chair: Thank you, Mr Rafferty, to you and your colleagues for your presentation and the detail in which you have presented it.

The next presentation is from the Canadian Railway Labour Association, its Ontario legislative committee. Mr Schweitzer, Mr Houston and others, we welcome you to the committee this afternoon. If you will introduce your colleagues, we could proceed. For the next 30 minutes, we are in your hands.

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CANADIAN RAILWAY LABOUR ASSOCIATION

Mr Schweitzer: I would like to introduce Steve Glass, who is secretary-treasurer of our committee, and Jim Houston, vice-chairman of the Ontario legislative committee, Canadian Railway Labour Association.

Our committee is pleased to have this opportunity to appear before the standing committee on this very important piece of legislation. We represent approximately 15,000 rail, bus and factory workers in the province of Ontario.

At the outset, we would like to note the words of the former Minister of Labour, the Honourable Gregory Sorbara, when he indicated and stated that "the prevention of workplace injury and illness and the protection of workplace health and

safety are of primary interest to the people of Ontario and to the government of Ontario."

We should note that most of our members work in the federal jurisdiction under the Canada Labour Code but each of us here have some members in some jurisdictions in the province working under the Occupational Health and Safety Act of Ontario.

We would like to express our concern about several aspects of Bill 208 and the proposed amendments and note that those amendments will have effects on our members in the province.

We would direct our comments to a few specific areas of the bill and the amendments, the first of which is the Workplace Health and Safety Agency. We, along with probably a good proportion of labour in Ontario, were willing to accept the agency as originally laid out, with the board of directors and the two full-time chairs, one each from labour and management.

We now find with the October amendments of the present Minister of Labour (Mr Phillips) indicating a full-time neutral chairperson that, as far as we are concerned as a committee, the minister has negated the value of the agency.

If it is to remain bipartite, as the original Bill 208 called for, the agency, we feel must determine the representation plan on all of the accident prevention associations, including our own, the occupational health centres, also medical clinics and training facilities. We believe there should be a plan for filling out those agencies in place in a reasonable and specific period of time.

Further, our committee would suggest that unless that is done there be no funding made available to those agencies.

We are concerned with the dispute mechanism. We feel there must be a mechanism to handle disputes that arise outside of the agency and a body, for want of a better body the Ontario Labour Relations Board or some similar board, set up to handle disputes which may arise. We certainly find that would be preferable to handling the problems in-house.

Our legislative committee firmly believes that one of the mandates of this agency and one of the most important functions would be to develop and deliver educational and training programs and to promote public awareness of occupational health and safety in the workplace.

We take the position that all safety representatives must be provided with training which would eventually lead to certification to make for a well-informed workplace.

As a minimum, and we draw on our experience in the federal jurisdiction where we have a number of unions involved, we would call for at least a certified member from each group which makes up a particular committee on the various shifts or tours of duty operated by the employer. We say that because our experience with health and safety committees is that we may have five or six different unions with different perspectives involved in a particular committee.

We note that obviously cost has been a consideration in not allowing for certification of all committee representatives, but if cost is to be regarded in light of the seven million workdays lost in Ontario in 1988 due to occupational injury and/or illness at a cost to the Ontario economy of upwards of \$700 million, the expense of that training seems to be justified.

Our committee believes in the highest standards of training being put in place for health and safety reps and the quality of that training cannot suffer because of any budgetary restraints.

One other area of Bill 208 and the amendments that we are very concerned with is the right to stop work. We believe one of the pillars of Bill 208 is the right to stop unsafe work. With the amendments, we are very disappointed that the certified worker representative will not have the right to shut down a workplace when he or she has "reason to believe," as is the present wording for a work refusal in the Occupational Health and Safety Act.

We believe that the amended bill must contain wording to that effect. We would note that an effective argument to allowing that wording is that in 1978 and prior, when the Occupational Health and Safety Act was being brought into play and the right to refuse was inaugurated, there was a major hue and cry that serious consequences would be had for business and industry in Ontario as a result.

Such is not the case, we believe. We understand that the mining industry worker representatives enjoy that right now and, from the information we were given, in 1989 there were no more than 16 mines shut down for unsafety in the workplace. In all, we note that there were only 422 individual workplace refusals in the industrial sector and a mere eight refusals in the construction industry in Ontario in 1989.

We would note also that other jurisdictions which do have the right to shut down an unsafe workplace, such as Sweden or Australia, where they have had that right for a number of years, the trend has been to fewer and fewer shutdowns.

We do not see the workers of Ontario being any less responsible and we predict better or similar results with that right enshrined in Bill 208.

On the topic of employer reprisals and prosecutions, our committee notes that when a worker or a group of workers suffers a reprisal and the Ontario Labour Relations Board determines that it was not justified, that would make it clear that the employer has violated section 24 of the act.

Again drawing on our experience in the federal sector, we feel that Bill 208 should contain an amendment subjecting an employer who is found to have violated section 24 of the act to an automatic penalty and possible criminal prosecution.

We have a concern with appeals against ministry action. We note that the bill and the amendments are silent on any changes to the appeals system provided in section 32 of the present act, noting that appeals at the present time are to be directed to the director of appeals, which is a function, as you know, within the Ministry of Labour.

The Ontario legislative committee feels that an amendment is required which would provide for an independent appeals body that would provide quick and simple solutions to both worker and/or management appeals against an inspector's orders or failure to issue orders.

We are concerned with limitations on public sector workers. We note that in the present legislation and the bill, Bill 208 itself, certain groups such as police, correctional workers, firefighters, etc., are exempted from the right to refuse. We are concerned that these workers, who we might note are probably some of the more well-trained in Ontario, should not be so exempted because we certainly believe they would exercise those rights, if they had them, with prudence and good judgement. But we believe it not wise, in our opinion, to put those workers in positions which might be untenable for them and, on the other hand, subject them to penalties if they do in fact refuse.

We have some concerns about health care workers. We have seen examples in Ontario where health care workers working alone, doing any number of things, lifting heavy patients, dealing with potentially violent patients, should be afforded the right to reasonably refuse in order to seek help.

We would also note that there are some positive aspects to Bill 208 and those are the implementation of more health and safety committees, joint committees, in many more work-

places and reducing the number of employees required.

We believe, and we already operate in our sector under part II of the Canada Labour Code, that there should be co-chairpersons on the joint committees and we welcome the proposal for paid preparation for joint health and safety committee members.

We are concerned that the requirement for medical surveillance become voluntary and where a worker does undergo a medical examination required by law, we certainly believe that the employer should pay the cost of lost time and travel expenses.

The right to refuse should be a broadly based right. We believe that activity—the amendments used should cover repetitive strain situations and poor design situations.

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Every workplace should require a certified worker and management member in each workplace, with special training. We would expand on that, again from our experience, to say that the certified worker and management member should come from that workplace. In our situation where we work in railway terminals, we can have management going from place to place at some higher management's whim. There is often a lot of substitution on committees and the local flavour is missing. We believe there should be some requirement that both worker and management representatives come from the area and work in that area.

We certainly believe in the establishment of the Workplace Health and Safety Agency with all its responsibilities for training and research, and we would encourage more training for all workers in health and safety.

I cannot help but make a comment on one of the other groups that said words to the effect of, "If it ain't broke, don't fix it." I cannot see how anybody in Ontario could responsibly say that at least one death a day, maybe 2,000 injuries a day, is something that ain't broke. We believe there is a lot that needs to be done to clean up the workplaces in Ontario.

We certainly agree that the increase in the maximum fine to \$500,000 seems to be an indication that originally at least the intent of the bill was to make Ontario employers far more conscious of their role in workplace health and safety for their workers, but we would point out that you can increase the fines to \$1 million, but if you do not implement the fines they are not worth the paper they are written on.

To conclude, while we are pleased to have the opportunity to express our views on Bill 208 and the amendments introduced with second reading in October, and having given you some of our experience in the federal jurisdiction as well as the provincial jurisdiction, our committee sincerely hopes this committee will listen closely to labour and recommend at least that the bill that was originally introduced in January 1989 be the bill that is accepted.

The Chair: On page 6 of your brief you talk about positive aspects of Bill 208 and you say one of the positive aspects is, "Establishment of the workplace health and safety agency with all of its responsibilities for training and research." Are you talking about the health and safety agency as it is proposed to be amended or as it is in the original bill?

Mr Schweitzer: As it was originally intended. We believe that agency is a vehicle that certainly can address all kinds of concerns that are not being addressed now.

Mr Dietsch: I would just like to pursue the chairman's question in relation to whether or not the agency has a neutral chair who is agreed to by both parties and responsible to both parties. I am not sure I understand how the responsibilities for training and research change. Could you elaborate a little bit on that. How do you expect that to change?

Mr Schweitzer: I would not consider the agency's responsibilities in that area might change, but with the addition of a neutral chair you do not have a bipartite committee. You might as well forget the word. You have a group of people, maybe equal numbers from labour and management, but then you have an overriding influence. If the two groups, who may be even on the agency, do not agree to implement a plan, to put a package together, then I would think that if you have a neutral chair that person is going to eventually be put in the position of deciding, and I think we would lose our bipartite idea.

Mr Dietsch: I understand your point with respect to your feelings on the chair. I am more concerned about the delivery of the program. I guess I am a little bit confused when you indicate that the position of a neutral chair—do not forget that I said responsible to both sides and selected by and agreed to by both sides. I am a little concerned how you feel that will change developing a body of education that can be shared with many of the individuals, which in your brief you point out as one of the positive factors, as more training for all workers. I think

that with the training and the kinds of things we want to do on behalf of health and safety, it is important that we do them in the right line. I guess I do not know how the addition of the chair changes that.

Mr Schweitzer: I would answer you in this way: First, I would ask you to remember the submission made by the chamber of commerce, which in my estimation—

Mr Wildman: We are trying to forget it.

Mr Schweitzer: I am sorry, Mr Wildman.

In my estimation, I do not know how as labour and management, and management with that attitude that just preceded us, we could come up with somebody who would be a neutral chair agreeable to both of us. In other words, I think we would be struck out at first base, right there.

Mr Dietsch: I think it is fair to say that as we sit around this table we do not categorize unions on one side or the other. We would agree some are more aggressive than others. We do not categorize them all by the worst points. We try—at least I do—to look at the more optimistic points. That was one individual speaking from the business perspective. I am sure you would find total agreement around this table that in terms of his representation, those were his those views, but were not necessarily all the views, or are you telling me that employers are purposely out there trying to kill workers? Is that what you are telling me?

Mr Schweitzer: Absolutely not; no way would I ever say that to you. What I am saying to you is that as originally put, a bipartite agency seemed to be acceptable at the outset in January 1989. I think that obviously the new minister succumbed to some kind of pressure from somebody. It certainly was not from our side of the table, if you want to categorize us as being on one side as opposed to management being on the other, so to me I have a problem with it. I do not know how else to answer you.

Mr Dietsch: Do not misunderstand a categorization, because my view is very strongly that it is quite necessary to have joint partnership and joint responsibility. There is no question about that in my mind.

The Chair: I thank you and your colleagues very much for your presentation. We appreciated it.

The next presentation is from the Hamilton and District Home Builders' Association, Mr Mattiacci. Gentlemen, I think you know the rules. The next 30 minutes are yours and you can use as much of it for the presentation as you want

or leave some time for an exchange with members of the committee.

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HAMILTON AND DISTRICT HOME BUILDERS ASSOCIATION

Mr Ashenhurst: We thank you very much. As said, this brief is prepared by the Hamilton and District Home Builders Association which represents over 500 employers in the home building industry within the greater Hamilton area. As such, we are also members of the Ontario Home Builders' Association, the Council of Ontario Construction Associations and we are also sitting members on the Hamilton area labour-management health and safety committee.

My name is Peter Ashenhurst. I am the chairman of the home builders association, sitting on the local health and safety committee, and Lou Mattiacci beside me is the president of the Hamilton and District Home Builders Association for 1990. That is where we fit into the scheme of things.

I will not follow my dictates here entirely because you can read that at your pleasure. I now you can all read and I do not have to dictate to you. Generally what we are saying is, "If it ain't broke, don't fix it." The construction industry, and especially the home building industry, has had a record in the last 10 or so years of decreasing the accident rate of all forms.

Even the Ministry of Labour in its magazine called Construction Safety in Ontario has said that the bulk of the credit must go to the industry itself, to the activities of construction unions, safety-conscious employers and the various safety organizations for reducing the amount of workplace hazards to the point of some 47 per cent reduction in accident frequency, 58 per cent reduction in medical aid frequency and a 64 per cent reduction in fatalities.

This has come about mainly because in 1974 the original Occupational Health and Safety Act gave every employee the right to refuse unsafe work conditions. Since then the organization called the Construction Safety Association of Ontario, which is an amalgam of almost every form of construction organization going, has created safety programs on a very proactive scale. It is quoted around the world and in fact makes safety publications available to various organizations around the world, along with the construction industry in Ontario, to encourage safe work habits and safe work conditions.

We find that the current bill has some major concerns within the home building industry. First, it creates another layer of bureaucracy, because nothing within government is less than a bureaucracy by the very nature of the beast. Whether that is good or bad is another thing, but it is a bureaucracy. The added cost of providing the mechanisms within the bill not only add to the cost of operations and increase the provincial budget, but also for the companies that are trying to administer the bill as intended.

Essentially the bill is structured on a fixed workplace scenario where the site is known and the quantity, and normally the quality, of the labour force is a known, a given. Construction on the other hand, and very particularly the house building industry, is exceedingly fractured.

In our immediate area in Hamilton I would suggest to you that the largest construction company in the home building industry has a staff nominally of about 10 people. The rest of it is all done by subtrades, subtrades suppliers, and therefore is very fractured. Up to 20 different trades, different companies are on a given site at any one time. What defines the site? That individual house there or the whole subdivision, as the case may be, is an extremely fractured organization.

We are very much in favour of health and safety in the workplace, because especially as we have seen in the past five or six years, every time there is an accident on the work site, we lose in many cases a very close friend. In our industry, the boss by far and large works side by side with his employee. He is in the ditch with him. He is on the scaffold with him. He is not remote in a clean office while the normal working force is in a factory environment of the plant. In this business, most of us are in the field with our employees, so what is good for our employees is good for us also.

We are worried that this act wants to abrogate the original intent of the Occupational Health and Safety Act, that everyone is permitted not to work and to voice his concern at unsafe conditions. Here we are going to abrogate it to a particular person to have that right to make a declaration, albeit, I suspect, in the long term it would be in consultation with the confrères they are working with but it is still geared to having one person do it.

We believe that safety is the absolute right of every individual. I do not care where on the spectrum you are; every individual has this right. Therefore, we suggest that rather than pursue the issue of having certified workers or management

or certified people individually, you would be by far better off talking to your colleagues at the Ministry of Colleges and Universities and creating certificate programs so that every worker, whether he be an employee or employer, management or worker, has the right and has the facility to go and get educated in worker education, worker safety and worker health.

This would allow in our industry, especially in the construction industry—as you know we move all over the place, and as was alluded to by our colleagues preceding me, management people many times are moved at the whims of management. In the construction industry, workers work all over the place, and having a series of certificate courses in the community colleges, whether you want to grade them or not, would provide the opportunity for every person to get health and safety education both in legislation and in practice.

We as home builders in the Hamilton and District Home Builders Association belong to the Ontario Home Builders' Association, as I said, and the home builders' association of Ontario has this safety policy and reference manual which was created—co-authored I suppose is the right word to say—by the Ontario General Contractors Association safety organization.

We are very concerned about that type of thing, but we think it should be broadly based and not given to a particular person. Like affirmative action programs, the minimum standard normally becomes the maximum by its very nature because if anybody says, "I don't have to do it because John Doe is my representative"—I do not care whether you are a worker or a manager in the management field, by the very precedence you abrogate generally to that decree, and we believe that everybody should have that right of education in health and safety.

We are concerned about the stop-work process, the ability to have one person stop the work, especially in the housing industry. I agree with our colleagues just before us who said that management and labour are responsible and so on, but that one fear that we may have an unnecessary stoppage is very difficult in the home building industry, because we also must work to one of the other programs called the home warranty program which requires very close adherence to finished contracts.

If you tell a prospective purchaser, "You will get your house on such and such a date," and you fail within the requirements of the legislation to provide that house on such and such a date, you do have one heck of a problem. The responsibility

ty, when push comes to shove, is with the contractor, the home builder to provide that, and it is his neck in the noose that does this. This bothers us very much.

1510

The makeup of the committee also bothers us, because the act says it shall be conjoint, which we agree with, between management and labour, but the act carries on and says, "It shall be a union member," and yet 70 per cent of construction workers in Ontario are non-union.

We do not feel that one form of worker over another form of worker by his affiliation or lack of, should have any more say than any other. I think that if we are going to pursue the issue, we should look at a very strong mechanism to truly represent the non-unionized worker, that he must be brought into a pool as a representative sitting on such a committee.

As our colleagues before us said also, we do not believe that any one or the other should be chair. Most committees normally elect their own chair and although our colleagues before us had given their opinion of a neutral, which I suggest is probably the government, we would suggest letting the committee decide its own. I mean, this is normally how committees operate on a supposedly equal footing.

In conclusion, really, we are not in favour of the new committee as structured for the construction industry because the construction safety organization has done a heck of a lot in the last 15 years. The stop-work provision bothers us immensely and, more than anything, we are very much against the idea of a selected worker. We believe that all workers, management or labour, should be educated in legislation and methodologies.

We believe that both union and non-union workers and worker groups or associations should be on the committee, if we are going to have this agency at all. My first statement was said, "If it ain't broke, don't fix it." We question the need of it. We would like to see support for the existing safety organizations. The Construction Safety Association of Ontario has immense stature. There are other organizations within the labour and unionized labour groups that have very strong representation and are very well accredited. After all, we do sit in Hamilton in a joint labour-management committee that is made up of the whole spectrum of management, government and labour union representatives who are heads of their own particular safety organizations. We have had a long period of

co-operation. Let's carry on with co-operation rather than confrontation.

We do not like that thing coming along, but there is a problem that if there is a perceived—I say that, "perceived"—error or unsafe condition on the site, we believe it is much more viable, rather than having a stop-work order issued by a complainant at that point, to have a fast track with the Ministry of Labour. Let's get somebody on the site, because in many cases the ministry will come out immediately on a very unsafe condition if it is reported properly. He will be there very fast and he is really the adjudicator and the enforcer of the legislation. Let him stop it right then, because he does have, today, the power to stop anything he wants that is unsafe.

Aside from that, just away from this little lecture, I sat on a town house site, one of my projects, and I had a superintendent who is a terribly miserable bugger. He used to call the Ministry of Labour himself against his own employees because they get up on the roof and hang underneath the nail or something and so on, because they would not wear their hardhats. He would call the Labour inspector and say: "Get down here. These clowns are not doing things." I think everybody is interested, but I think you have to do a fast track rather than have an absolute stop, unless there is going to be complete accountability. If we are going to have the right to stop work, then we had better have the other half of rights as accountability.

Finally, we really do believe in our industry—although we believe that throughout the whole province you have to have universal education. As they say today in the general world, the educated consumer is your best friend. The educated employee at any level, depending on which side of the fence he sits on, is your best friend and will reduce the advent of construction problems.

The construction safety association and the ministry have produced these magazines, which I suppose the committee is able to get, that show that the reduction in accidents since about 1966 is absolutely phenomenal by the co-operative venue that we have now in the construction industry, and we strongly suggest that this carry on.

We would entertain any questions, but we certainly thank you for the opportunity of being here.

The Chair: Thank you. A number of members have indicated an interest. We have about 10 minutes, so I wonder if we could be self-

disciplined. Perhaps we could split it among the three caucuses.

Mr Dietsch: In relation to work refusals on your job sites, how many work refusals have you experienced?

Mr Ashenhurst: I am personally not qualified to answer that. We have not had the mechanism to do that and very rarely does anybody do anything on a construction site in housing, mostly because I do not think they have the right to stop a job. But we do have people who have left sites, yes, because they did not appreciate the circumstances.

Mr Dietsch: I am not sure I understood your answer.

Mr Ashenhurst: We today do not have the right to stop a site, but we have the right to walk off the site if we do not like it.

Mr Dietsch: That is right. That is what I was referring to.

Mr Ashenhurst: And we have had that. I cannot give you a statistical number of anything like that, but we have had it on our own sites.

Mr Dietsch: Can you give me a ballpark idea? Are we talking about a lot of times this has happened? Are we talking about a few times? Give me your own personal example from your own particular company. Maybe your assistant could answer.

Mr Mattiacci: I can answer that. At my particular site, I would actually send the people home from the site if they do not comply with what I ask them to do safetywise. I do not know if that answers your question.

Mr Dietsch: Okay.

I am a contractor, I am a carpenter, and I am coming to work for you to help build a home. I have been hired by you. I come and I find out that in fact some of the things from a safety viewpoint are not properly put into place. Those kinds of cases where those carpenters, or in all the trades, have refused to go on your site because of an unsafe condition that is there, by a personal choice—has that happened?

Mr Mattiacci: Yes, it has. There have been trades that come on site and there is a bit of a conflict, and it is usually resolved on the spot. It is usually a minor item that maybe somebody overlooked.

Mr Dietsch: So it has not been a major problem.

Mr Mattiacci: No. No one has stormed off the site.

Mr Dietsch: Do you have a mandatory safety training program?

Mr Mattiacci: Not within our company, no. Like Peter mentioned, in our company we have three employees. The rest are all subtrades and suppliers. So to train the subtrades and suppliers through my own company—

Mr Dietsch: Unionized or non-unionized?

Mr Mattiacci: No, it is all non-unionized. The house-building industry in Hamilton-Burlington is non-unionized.

Mr Dietsch: In respect of the comment you made that you believe the agency should select its own chair, that is exactly what is going to happen in relation to the proposal. The agency, made up of 50 per cent workers and 50 per cent management, is going to agree on their own chair and be responsible to that committee. Are you aware of that?

Mr Ashenhurst: I am not aware of that, because the papers I have—I do not have, obviously, the plethora of information you have. The stuff I have says that the chair was normally going to be seated by a labour representative. Our concern is maybe not necessarily quite that so much as that “labour” has always been related to unionized labour, and we are saying 70 per cent of the workers in our business are non-unionized, are not organized, and yet here is provincial legislation that is coming along based on only a sector of the workforce.

1520

We think that unions have always been a very positive light in our society in any venue.

Mr Dietsch: One very quick last question so that my colleagues can have an opportunity. You have obviously had experience with unionized workers on some of your job sites. Do you find that they approach safety any differently than non-unionized?

Mr Ashenhurst: Not at all. We are dealing in individuals.

Mr Mackenzie: First off, are your employees organized, in the union or is yours a non-union operation?

Mr Ashenhurst: I personally own an engineering and surveying business. We are consultants to the building industry. The industry in this end, normally west of Oakville, is non-unionized in the house-building industry.

Mr Mackenzie: I take it when your rather nasty foreman called the Ministry of Labour people to get down because these clowns were

operating on the roof without their safety belts that you agreed with that.

Mr Ashenhurst: I agree with that very much so, yes, because I am a strong proponent, not for the superintendent—you have to remember that today's laws say that when I walk on the site as an inspector and I see you, a worker, doing something wrong, I fine you. Then depending on the severity of it, I fine your supervisor. Again, at that next degree of severity of the contravention, I not only fine the worker, the supervisor, I also fine the owner of the company or the company itself. It is to everybody's best venture to make sure this is positive all the way.

Mr Mackenzie: You say, "If it ain't broke, don't fix it." That is an argument we have had from some others. I am dealing with the province generally now, not just the construction industry, but between 1 January and 30 November 1989, we had 272 deaths. It is going to hit about 300 for the year. We had 434,997 compensation accidents. We had, in the same period of time in the province of Ontario, an average fine which worked out to \$2,346, even though we had a \$25,000 maximum.

We had 78 per cent of our workplaces in Ontario in violation of the act—that is the Ministry of Labour's own advisory council—30 per cent to 40 per cent of the workplaces with designated substances had not carried out an assessment or implemented a control program to reduce toxic exposures; 35 per cent of joint committees had worker members selected by management; 60 per cent of committees had a single chairperson and in 73 per cent of those cases, the chairperson was from management; 10 per cent of the committees did no inspection whatsoever; 40 per cent of the workers and 20 per cent of management had no training in health and safety. I could go on and on from there.

Do you really think the current system is working?

Mr Ashenhurst: I do not know, with due respect—

Mr Mackenzie: Those are ministry figures, not mine.

Mr Ashenhurst: I do not know at what venue and what partition between construction and industry, manufacturing, and I cannot comment. I can only comment within our own field which I am—

Mr Mackenzie: In the last year, according to some of your brothers, there was a decrease from 39 to 35. I question that figure, but even if they are right, that does not sound to me like a

tremendous—that is in deaths alone—improvement, even in the construction industry.

Mr Ashenhurst: All I can comment is the fact that our rate of reductions of many venues, accidents, medical, are quite substantial since they have started. The new act, quite realistically, is not going to give you instant answers either. It takes time to work it in, and I think that in our case we have demonstrated via the construction safety association and the various individual associations, both within the labour unionized workers' safety committees and the management committees that it is evolving. It does work.

Mr Mackenzie: Maybe it would have been advisable to recommend, whether we would agree or not, that your specific sector should be eliminated from the act or exempted. But how can you argue, as you do in your brief, "If it ain't broke, don't fix it," given the figures of workplace injuries, deaths, the lack of compliance and the violations right across Ontario?

Mr Ashenhurst: We do not believe, realistically, that another law fixes it. That is really all I am saying, that you are making the pile deeper, and I think what you have to do is pursue the issue that we have now. We have associations that are working. It takes time and education.

Mr Mackenzie: Incidentally, that is not agreed to by the people who are working. I am talking now about the unionized sector.

Mr Ashenhurst: No, I understand.

Mr Mackenzie: If you read their briefs today, and in Toronto yesterday, clearly they do not agree, and they do not agree with the credibility you give the CSAO either.

Mr Ashenhurst: They sit on that organization, by the way, sir.

Mr Mackenzie: Yes, 100 management people; 13 labour, and the management end of it.

Mrs Marland: I will say at the outset that I am opposing the bill for some of the same reasons you have given, but not for some of your reasons. I want to give you an opportunity to clarify your reasons. First of all, obviously I think anybody with any common sense would agree that the 70 per cent of the people who are non-unionized should, if this bill were to go through, have representation. That goes without saying. I do not think you wanted to create the impression, at least I hope you did not, that a job should be finished at any price because there is a commitment to the client. The way you worded it this afternoon, it came across rather poorly, I must say. You do not really mean that the obligation is

to finish the job at any price, even at the risk of a human life, at that price.

Mr Ashenhurst: No death anywhere, any time, anyhow, any venue is worth while.

Mrs Marland: Or injury.

Mr Ashenhurst: No injury that takes away the bread and butter of anybody at any time anyhow, depending on which side of the fence, is worth while.

Mrs Marland: Then can I ask you what you mean—and I say this out of sincerity, knowing that my two sons have worked on construction sites, and many other young people who I know. When you refer to “those clowns,” it comes across as being rather derogatory, and then you went on to say something about an educated employee is the best friend of the industry. Could you clarify what you mean by that?

Mr Ashenhurst: I think that the more people know what safety means—and this is not only the worker end of it but also the management end of it, who are also employees, because in most companies there are only one, two or three bosses and the rest are employees on different sides of the fence—the more they know about what legislation means and therefore, from that, how it works on the work site, the better off everybody is. I think it has been proven by almost everybody at one stage or another—and this is government, labour and management in various organizations—that the safer a site is, the cheaper it is to operate.

Mrs Marland: You see, what I thought was interesting was when Mr Mattiacci said that he only has three employees and he does not have an educational program—I think was his answer—knowing very little about it, and I do not claim to be an expert in any way, it would seem to me that it is as important to educate one member of staff as 5,000, because the responsibility is the same to those staff.

One place I agree with you is that I do not personally think we need more legislation. I think we need to either enforce the legislation we have or improve it, but I do not think we need to pile on another level of bureaucracy to make something work that is not working today. I think it is like anything else; if we enforced what we had today, there would be the protections there, but surely the numbers do not matter.

The Chair: Perhaps Mr Mattiacci would have a comment from this delegation.

Mr Mattiacci: Perhaps you misunderstood me. We are prepared to educate the three employees that we have. As I explained, the

majority on a new home site in the Hamilton-Burlington area is subtrades and suppliers, other companies than my own. The home builders' association is prepared to train these subtrades and suppliers because they work on different sites, not just my own, so it should not be my responsibility. But the home builders' association will take it on itself to do its best to train these people.

Mrs Marland: Are they doing that?

Mr Mattiacci: We have seminars that take place.

1530

The Chair: Gentlemen, thank you very much for your presentation this afternoon.

The next presentation is from the Ontario Public School Teachers' Federation, Hamilton District.

Mr Mackenzie: Before the next group begins its presentation, I think, unless I heard wrong, we need some clarification of comments that were just made by my colleague Mr Dietsch in responding to the previous witnesses before this committee. If I heard Mr Dietsch right, in responding to their arguments about the neutral third-party chairman, Mr Dietsch said that is exactly what this bill does: The two parties agree on a neutral chairman.

If that is not accurate, I would like to know. If it is accurate, then I think it begs a very serious question. That is not what the bill currently says. The bill currently says a bipartite approach, without the third party. That is one of the amendments we have been told the minister wants to move. I think this should be clarified because if Mr Dietsch's answer is correct to the previous witnesses, then we might as well not even be here. They have already made the decisions.

Mr Dietsch: You are quite right in respect of the statements that I made. I did say that and I apologize for that because that was not the case. The case is that we are dealing with the bill before us, but the minister did suggest in the House that it was a neutral chairman who would be selected by the workplace on one hand and the employers on the other hand, and responsible to those, in that speech. I apologize, Mr Mackenzie, if I created any misinformation for you, or in fact for the presenters, because you are quite right.

The Chair: I appreciate that.

Mr Mackenzie: I would hope that the gravity of that particular case is understood because not only was your statement very firm, but you are the parliamentary assistant to the minister.

Mr Dietsch: I understand.

Mr Wildman: Mr Chairman?

The Chair: Could we get the next presentation seated and then you can raise your point, Mr Wildman? Would the OPSTF take its place at the table, please? Mr Wildman, you had a point you wished to raise?

Mr Wildman: I think, for the benefit of the members of the committee and for members of the public, business and labour appearing before our committee, we should have a clarification.

Is it the position of the parliamentary assistant and the Liberal members on this committee that what in fact is going to come out of this committee is the amendments proposed in the House by the minister? If that is what we are really dealing with, then for the benefit of people making presentations before the committee, they should know that what they are dealing with is not the bill as written, but rather the speech made by the minister in the House. I think that should be clarified.

The Chair: I think perhaps I could help out here. I do not want to second-guess Mr Dietsch or the government members, but we will not know that until we get into the clause-by-clause debate. I think to engage in that debate at this point would be pre-empting that part of the process, so I would suggest that we not get into that debate this afternoon.

Mr Ende, we welcome you here this afternoon.

ONTARIO PUBLIC SCHOOL TEACHERS' FEDERATION

Mr Ende: Thank you. My name is Rein Ende. I am the president of the Hamilton District of the Ontario Public School Teachers' Federation. As such, I have been a member of our Hamilton Board of Education's joint health and safety committee for a number of years. I have participated in the work of that committee, and we watched a certain amount of maturing on the committee.

Needless to say, there is still a long way to go in the process. As most of the people here realize, teachers were not included under the Occupational Health and Safety Act until 1984, and perhaps I will say a few words about that somewhat later.

Nevertheless, just to provide a bit of introduction, I would like to give you an idea of what the Hamilton board is like: It has over 4,500 employees, so basically it is a fairly large employer even in the city of Hamilton. Unlike some of our industries, we have 10 collective

agreements that are negotiating with five different bargaining agents, but there is not necessarily one-to-one correspondence there either.

In the different schools that we have, there are about 95 different work sites. Some of these are schools; some are administrative offices. There is a maintenance facility as well. So there are certainly different kinds of work going on at each of those locations.

As well, 37,000 youngsters are in our buildings in the daytime and, of course, there are adults who come into daytime classes. There are people who come in for evening classes. So a large number of people come into these work areas. That is a group that is not covered by the legislation, but that is not the issue here either.

We also have teachers who are employees of our board who work in community facilities such as the regional correctional centre, the Arrell Observation and Detention Home for Children, a number of places that are owned and property of other agencies. As well, there are board facilities, board property that is rented out and used by outside agencies. In fact, even competing educational enterprises rent board space. So the point there is that often it is very easy to look at the owner as being the employer, but that does not always apply. That is a little fine point that needs to be recognized.

As I mentioned earlier, teachers were not covered under the act until 1984. We are still puzzled why it took so many years to accomplish that, but certainly we think it is appropriate that teachers be covered under the act. As it happens, the coverage is through a regulation. I would suggest that the appropriate thing to do, if we are looking at amending the Occupational Health and Safety Act, is to look at section 3, remove that exclusion and put teachers into the act as part of the act, rather than simply as a regulation.

There is this business of the right to refuse unsafe work being restricted by a concern for the safety of the children. This has been recognized. Teachers acknowledge that. Teachers accept that. Teachers recognize their special duties in looking after young people and taking care of them. This is a severe responsibility and it needs to be accepted. As long as that is allowed for first, then teachers feel the right to refuse unsafe work is an important right that we need to be afforded.

I appreciate some of the comments a little earlier that questioned exactly what the legislation was this committee was dealing with. Were we dealing with Bill 208 as we saw it back in January, or are we dealing with some comments

that have been reported in October or some other comments in December? We were quite pleased to see the original Bill 208 because it seemed to have a lot of very progressive and admirable items.

We were looking forward to seeing approval of the bill and we were quite disappointed to hear some objections from some quarters and actually quite surprised to see some of the suggestions for changes that we understand are out there. But if we are asked which we would prefer, then quite simply the original bill as tabled in January at first reading.

We think it is important to strengthen the employer-employee partnership. As teachers were not under the act until 1984, in the last few years we have been working our way, trying to figure out what our role is. I think it is quite clear that we have not exactly defined the way that we wish to operate in the joint health and safety committees, but I think we are making some progress towards that. I would suggest that the delay in approving the bill has had some impact in helping us to clarify our role, and we look forward to seeing the bill approved.

In our own joint health and safety committee in our board, we have a number of unresolved concerns. We look at the requirement to have the employer provide a written response within 30 days to recommendations from the committee as quite valid, quite appropriate, and we would welcome that when it were to come in. Certainly, there is room for improving and strengthening the internal responsibility system.

1540

I have a few comments about training and certification. I think this has received a certain amount of publicity in the press. As I mentioned, we have in our board a number of work sites and I would suggest that at each work site, that would be at each school, there really should be a trained committee member for the subcommittee at that school that would have at least a certain minimum level of knowledge and training in health and safety.

Of course, in a large board, there would be a need for a central committee that would co-ordinate the work around the board, and the key representatives for each of the unions and locals should have considerably more training than the ones at each individual school. I think there is room for considerable discussion on what that should be and I have offered a proposal here.

I suggest that for each school, each work site if you will, one member from each local should have something equivalent, at least, to the

Workers' Health and Safety Centre's level 1 course. Right now that can be achieved in about 30 hours of training. I have taken that course and taught it. I see that as certainly a valuable beginning to people's awareness and knowledge about health and safety matters.

Certainly there is a need to have the training be sector-specific, training specific to the workplace. That basic 30 hours should be supplemented. I have suggested that about 50 hours to 80 hours of instruction could cover what probably would be seen as the basics that everyone should have, an initial course. Of course, we are quite amenable to the notion of periodic, annual or biannual recertification, refresher courses and upgrading. That is all part and parcel of what we are used to as teachers. We take that for granted; we take that as part of our normal, everyday working life.

I have heard proposals of around 150 hours as the amount for a so-called certified worker who would have privileges such as the right to shut down unsafe work. Maybe the figure of 150 should be really compared with the kinds of courses the teachers are involved in. The standard high school credit course is 110 hours. If a teacher thinks of the word "course," he thinks of 110 hours of instruction, and certainly the 30-hour and 40-hour notion is really on the order of a half a course or a part of a course.

If we look at different kinds of professional designations people can get in the community colleges, these designations are achieved after a series of courses, five or six courses, and a person would get a little title that, in our minds, would be comparable to an accredited, certified worker with certain responsibilities and privileges as well.

That whole matter should not be taken lightly. In the educational system, most teachers have university degrees. Many of them have considerable credit towards additional graduate degrees beyond that. If we do propose or suggest some form of training that is really perceived as trivial, it would not have the respect or the recognition that would be necessary to achieve the goals we are after in improving safety in our workplaces.

We have heard some concern about the right to stop dangerous work, and I suggest that if a person is adequately trained, it is very difficult to argue with that person's opinion on a situation. If a person is trained to assess a situation and is following a certain procedure and if by using that process he comes to a certain decision, then if the decision is to stop the unsafe work and get the

situation corrected, that needs to be allowed and respected.

If there is some reservation, I suggest the answer is improved, additional training. Certainly regarding the notion that the certification can be withdrawn for malicious situations is something that people can recognize. We have a very strong ingrained notion of just cause. We accept consequences for malice.

The whole matter of performance initiatives seems quite unclear. We know that many boards of education actually are considered to be relatively safe. We know that is not the end of the matter. The Hamilton board has a very serious, well-publicized asbestos problem that really only now we are starting to make some progress towards correcting. I continue to wonder. Had we had the Occupational Health and Safety Act in place, had we had a chance to participate in the process a decade ago, I really wonder how much the situation would be different now. That is a very tempting speculation as far as I am concerned.

We have heard some discussion about a proposed agency and, as everyone here knows, there are a number of management patrol safety associations as well as the Workers' Health and Safety Centre. I recognize as well that there are real differences in the budgets that these organizations are given to achieve their purpose. I think there is a strong need to have that revamped and I suggest that maybe one direction to look at is to look at the actual training these organizations are doing. Look at the number of hours and the number of workers, multiply and factor those out, and then divide up the money appropriately.

If we look at the whole situation, all of our joint health and safety committees imply a bipartite structure. The notion of an outsider as a third party really seems quite inappropriate.

Another area is the matter of the co-ordination of the three branches at the ministry. There are three little green booklets that people refer to. There are three different groups of inspectors that come out, although they are not really all represented in every regional office. There is a little bit of a hiatus, a little gap. Mostly, schools are covered under the industrial regulation, being indoor workplaces, but when a construction project is under way, a renovation of a school or an asbestos abatement project, then the construction branch seems to take over and we are very concerned about both things falling between the cracks if you have different people coming and going at different times. We would really like to see some co-ordination there.

I think there is a strong case to be made for upgrading the ministry's inspectors so that they are competent and capable in each of the three areas. It is our impression that there is a strong case to be made for bolstering the ranks of the inspectors so that there is less delay in having them arrive. I suggest that the answer there is to amalgamate the three branches.

Finally, I would like to suggest that if you are looking for some input here, as a direction to go, go back to the original Bill 208 as tabled in January and look at that as a guideline. That seems to have a lot more merit than any of the other suggestions we have seen since then.

Mr Dietsch: You have to realize that our goal in life is to become as articulate as you are. My problem is that I have not been away from the shop floor as long as you, but I will keep on working on my goal.

I would like to ask you a question in relationship to the proposed agency. In dealing with the safety associations and the Workers' Health and Safety Centre, you make the point that there appears to be an imbalance. The point is, with the proposals that are before the committee in regard to Bill 208, the makeup of the safety associations will change to an equal part of workers and an equal part of management. Do you still feel, with that kind of change in the makeup of the association, that that is an improvement to the system and therefore takes away the concern that you have made there?

Mr Ende: Obviously I would applaud any improvement of the safety associations. I really do not think the suggestion there seems to hit the mark.

Mr Dietsch: What do you expect to have then, past the fact that the safety associations will be made up of 50 per cent workers and 50 per cent management?

Mr Ende: The key there is the funding. If we can, for example, take the money given to the agency and split the money in half, half for the safety associations and half for the workers' centre, that probably would go a long way towards correcting the situation.

Mr Dietsch: Are you suggesting that half the workers on the safety associations is not the way to go.

Mr Ende: I have no argument with that. My comments were to the point of funding.

Mr Dietsch: Funding, okay; it is the dollars.

Mr Wildman: I have two questions. You said you supported the requirement for management to respond to the joint and safety committee

recommendations and you also said the 30 days was acceptable. At least that is how I understood your position. There have been other representatives of workers in the province who have appeared before us and have objected to the 30 days, saying that if it is indeed an unsafe condition, 30 days is too long and that seven days or something such as that would be more appropriate. How do you feel about that?

Mr Ende: My comments are based on reflection on our current situation. Our committee at this point is meeting no more frequently than once a month. What we are finding is that we often do not get responses at the following meeting.

Mr Wildman: So 30 days would be an improvement.

Mr Ende: Thirty days would be an improvement in our situation. That gives you an indication how much further we have to go, in our context, so we look for improvements and we welcome any improvements we can see. We welcome any opportunity to put teeth in the legislation to get the kind of action we need to keep the workers in the educational systems in our province safe.

Mr Wildman: You mentioned in passing the asbestos problem the Hamilton board has to deal with. Could you elaborate on that. Is that something that was initiated by management or by the ministry, or was it a result of work of the joint health and safety committee?

Mr Ende: Actually the asbestos situation in Hamilton that we are undergoing right now perhaps surfaced within the last year, and as such it probably has monopolized much of the time we have given to all health and safety concerns, so perhaps maybe our board has not really devoted that much staff to the problem in the past.

The situation really has been in response to the efforts of one of our workers' groups. The CUPE local has worked very hard to get information on the matter. They brought the matter to our attention. They attempted to get straightforward answers from our board, and failing that they invited the Ministry of Labour in for a bit of assistance. With the assistance, orders were written that required compliance and compliance plans within certain deadlines. Some progress has been made towards that and we are hopeful that maybe the situation can be corrected. Right now the board is looking at a four- or five-year plan to deal with about 10 per cent of our schools. Frankly we would like to see that speeded up a

little bit, but there are a number of other factors in the whole situation too.

Mr Wildman: Finally, as I understand your position representing the federation, you would support Bill 208 with some minor amendments such as actually including teachers in the legislation rather than by regulation.

Mr Ende: That is right. I see that as a simple amendment to make. Failing that the rest of Bill 208 as originally tabled probably would be an excellent package for our province.

Mr Wildman: But you do not welcome the proposed amendments by the minister.

Mr Ende: I think I suggested that already.

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Mr Mackenzie: I wonder, Mr Ende, if I could get your comments on another brief. I do it because you made some mention of the time that might be involved in the necessary training. You referred to the current Ontario Federation of Labour program, which I think you have participated in or have taught in yourself.

In the presentation made by McDonald's restaurants in the peninsula, they of course argued very strongly against the bill. One of their main reasons seemed to be one that their workforce was a part-time workforce, but that they also spent a great amount of time and a couple of charts outlining the fact that it would be overly expensive.

They indeed listed that to train one of their workers—I guess the young people in the restaurants—if I remember the figures correctly, they were 300 hours for selection of the employees, 300 hours for training or lost time while they were training, two 48-hour periods and I forget what they were for now, and an additional list of other hours. It ended up being 800 to 1,000 hours to train each one of their safety and health people in the McDonald's restaurant chain. What would your reaction be to that kind of time allotment?

Mr Ende: Without having actually seen the figures or heard the presentation, my first reaction is that perhaps there is a bit of exaggeration or inflation in the figures. What we have been looking at is something like 150 hours or more for a key representative on a central committee and we are dealing with a workforce of, let's say, 4,500 people. I do not think you have that large a workforce at the average McDonald's restaurant.

The Chair: Thank you very much for your presentation and for bringing to us the views of the teachers' union.

The next presentation is from Dofasco. Is Mr Mayberry here? The brief is being distributed to members. Gentlemen, we welcome you to the committee this afternoon and if you will introduce yourselves, we can proceed, and the next 30 minutes is yours.

DOFASCO INC

Mr Mayberry: My name is John Mayberry and I am president of Dofasco Inc in Hamilton. With me is Norman Lockington, who is manager of environment and utilities at Dofasco. His responsibilities include co-ordinating our work in the environment, occupational health and safety, workers' compensation, energy and utilities.

We appreciate the opportunity to express our views here today and hope and trust that our comments will assist the committee in the development of fair and effective legislation.

As a bit of background, Dofasco steel is Canada's largest integrated iron and steel manufacturing plant and it is located in Hamilton. We have 12,000 employees and we have long been recognized as having exemplary employer-employee relations. Our employees are not represented by a labour union.

We support all reasonable measures to amend the Occupational Health and Safety Act and improve its effectiveness. Many of the proposed changes regarding the development of sound policies and programs and the expansion of training are both positive and constructive.

We are disappointed and concerned, however, about two key components or proposals. We believe that the amendments related to the agency membership and to the stop-work provisions will dramatically politicize and damage occupational health and safety in this province. These amendments as currently drafted are a major step backwards in our opinion.

We share your concern about the health and safety of our people and we have tried in this brief to set out what we believe to be the best methods for achieving the objectives, which both the government of Ontario and we at Dofasco desire.

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First of all let me describe our philosophy. Our occupational health and safety programs, which have been in existence for many years, are based on the following premises.

We believe that health and safety are integral parts of work and cannot be separated from other aspects of the job. People cannot do their job properly and well unless they do it safely and unless they are in good health. We believe that

our company, our supervisors and our employees are honestly and sincerely committed to maintaining workplaces and work practices that are both safe and healthy.

We also believe that our supervisors and our employees accept their personal, moral and legal responsibilities for not only their own health and safety but also for the health and safety of others. Since the vast majority of people are committed to their personal wellbeing and that of others, we believe an employee does not change that commitment when he becomes a supervisor.

We believe that neither employer nor employee can delegate the responsibility legally, morally or practically to any other person, committee, representative or agency.

We believe that we have fair and effective policies and procedures for resolving any employer-employee concerns. We do not think it is either necessary or desirable for any new legislation or outside agency to attempt to interfere or upset these policies and procedures that are in place.

Finally, we believe that every person, whether a supervisor or a regular employee, has the right and responsibility to be aware of hazards in the workplace and the right and responsibility to remove himself from those hazards until the workplace is made safe. This may involve a personal decision to refuse to do work. These rights and responsibilities cannot be delegated to any other person.

All of these beliefs are summarized in our statement of policy in our Dofasco Employee Safety Handbook and our Occupational Environment Manual.

As for Dofasco health and safety programs, we believe that we have excellent health and safety programs. We are consistently among the leaders in terms of program performance in the North American iron and steel industry. We have achieved rebates from workers' compensation assessments based upon our superior results for many years.

Our safety and occupational hygiene programs require performance, and they are monitored on an ongoing basis. Our programs include the following elements: the acceptance of responsibility at all levels; accountability for performance; the establishment and maintenance of safe workplaces and practices; the full participation of all employees through personal safety contacts, safety meetings, inspections and investigations; comprehensive training programs for supervisors and employees.

Our occupational health, hygiene and safety programs and services are among the most comprehensive in Canada. The medical department has a staff of 50, including four full-time physicians, 18 nurses, physiotherapists, social workers, ergonomists, occupational therapists and epidemiologists. Extensive medical monitoring and therapy is carried out, including audiology, radiology, physiotherapy and biological and pulmonary function testing. Unique research programs for the treatment of alcoholism, hypertension and back problems are conducted jointly with McMaster University and other agencies.

Our safety and occupational hygiene departments have a staff of 65 people, including safety professionals, safety engineers, systems analysts, trainers, occupational hygienists, fire prevention specialists and emergency response co-ordinators.

Our supervisor and employee training in occupational health and safety is extensive. Employees attend a core five-day course and specialized courses at offsite dedicated facilities for training. Extensive training is also done on the job. Each year there are approximately 10,000 man-days of classroom training, 570,000 personal safety contacts between employees and supervisors, 4,000 monthly safety meetings, 40,000 workplace inspections and 2,200 construction safety meetings.

Our programs are comprehensive and effective and our employees, from top to bottom, are fully involved. We are eager to improve upon these programs, but we are also very concerned when we face any proposals that might weaken them or reduce their effectiveness.

In regard to the proposed amendments, we believe that the Occupational Health and Safety Act is fundamentally a sound piece of legislation. We support and are committed to the internal responsibility system and the individual right to refuse unsafe work.

We also agree, however, that the act can be improved and we support the proposed amendments requiring the development of formal health and safety policies and programs and expanded training for employees and supervision. We also agree with the requirement for management to respond in writing to committee concerns. We do these things today. All of these initiatives improve the effectiveness of the internal responsibility system and put responsibility and accountability in the workplace where real knowledge and resources are present.

We are, however, very disappointed in two proposed amendments, as I mentioned before: membership in the agency and the role of the certified person.

First of all, let me comment on the Workplace Health and Safety Agency. We believe the proposed agency has some fundamental flaws.

The agency is bipartite. This imposes a polarized approach from the beginning. We believe safety and health issues are far too important to be left to an agency that is based upon a bipartite, adversarial system. We need an agency that is based on a model of joint multipartite problem solving rather than special interest groups.

The agency is not fairly representative of the workplace working people in Ontario. We understand that employee or nonmanagement membership will be restricted to nominees of organized labour. Almost 70 per cent of Ontario workers will be left without any representation on that basis. This is not fair because labour unions do not represent the majority of working people in this province.

The agency will personally certify all selected management and workers after those people have been trained by the safety associations or centres. This direct involvement by the agency in certification is impractical and presents opportunities for confrontation. We believe our training courses are as comprehensive and more relevant to our workplace than courses offered elsewhere, and we work hard at that.

The agency will identify priority firms requiring direct attention by the Ministry of Labour. Health and safety performance criteria are complex. This proposal invites special interests and will lead, in our opinion, to more confrontation.

We therefore have several recommendations to make to the committee.

The agency should be multipartite with members nominated by organized labour, management, professional bodies and by health and safety committees in those workplaces that do not have trade unions. The minister should make appointments from the nominees according to ability, commitment and representation. We need the best people for an important issue such as this, the best people we can get from all constituencies for a strong, committed agency.

Employees from workplaces that are not represented by trade unions should make up at least 50 per cent of the worker members on the agency. This proportion would be fairer and

more representative of the real situation in Ontario.

The mandate of the agency should be restricted to the administration of safety associations and centres and the development of policies or criteria for the certification of representatives. The agency should not get involved with the certification of individual representatives directly. This is the responsibility of the training organizations. Those firms with comprehensive training capabilities should be approved to continue that work.

The agency should not be involved in the certification or evaluation of individual workplaces or firms. Work with individual firms has been and is the role of the Ministry of Labour.

Our other concern is the stop-work provision. We have concerns about the proposed procedures for the shutdown of operations by certified individuals in the workplace. The act as it stands today currently allows any person to refuse unsafe work. This is fair and it is just. It places responsibility on the parties who are directly involved and who best know the hazards and the implications of the refusal. There are concerns, however, that not all employees currently understand that they do have this right under current legislation.

The proposed amendment would allow the certified worker to shut down an operation even if all those actually working there had determined that there was no hazard. This gives authority to an individual with no responsibility or accountability and will result in more confrontation and more confusion. The certified representative is being asked to make major decisions about plant areas or equipment where he or she may have no expertise. It is unfair to expect a painter, for example, to decide if a crane operator should shut down a crane simply because the painter attended an agency certification course.

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We are also, in our company, not concerned about frivolous refusals. We are concerned that there will be confusion about who is really responsible. We already require that in any unsafe work situation the employee stop work immediately and get the concern resolved at the moment of concern. It will increase the hazard if employees think they must wait and seek out some certified person first. It also increases the danger to the worker.

Joint labour-management decisions to stop work are unnecessary and only confuse the situation further. If both parties already agree, no legislation is required.

We, therefore, in this case make the following recommendations: all employees in Ontario should receive basic mandatory workplace training in their rights under the Occupational Health and Safety Act, including their right to refuse unsafe work and the procedures involved; all joint health and safety committee members or their equivalent should receive comprehensive certification training in the legislation in basic health and safety concepts and in hazard identification and control specific to that workplace; the role of the certified committee members or representatives should be to audit workplaces and advise workers and management on all aspects of health and safety, including when a refusal may be appropriate. They would act as a resource, an adviser or an auditor. It is unfair to assign them the burden of taking direct, individual action when they cannot possibly know every hazard associated with everyone's job.

In conclusion, the Occupational Health and Safety Act clearly and justly places legal responsibility and accountability for health and safety performance and training on individual employers, supervisors and workers. These responsibilities, in our opinion, cannot be delegated to any agency or certified representative. It would be unfair, impractical and ineffective to do so. We, like your committee, are committed to finding effective ways to improve health and safety performance in Ontario. We are now, all of us in 1990, entering a period of financial restraint and tremendously strong international competition. Despite this, health and safety performance must be maintained at a very high level.

There is a lot of important work that has to be done and we cannot afford to waste valuable resources on procedures that do not directly benefit workplace health and safety. We urge the committee to reject the adversarial approach, build on past successes and improve the internal responsibility system through training and co-operative problem-solving. Then and only then will we have solid new legislation, and then we can truly reduce occupational injury and illness in this province. Thank you.

The Chair: Thank you. A number of members would like to have an exchange with you.

Mrs Marland: This is a very impressive brief because of the fact that you have taken every issue very concisely and dealt with it constructively, and I compliment you on the style of the presentation. I also must say at the outset I am absolutely amazed that Dofasco has 12,000 employees and you are not unionized. How is it

possible that you have 12,000 employees in your particular industry and you are still without a union? How have you managed that?

Mr Mayberry: We work awfully hard at treating every person as we would like to be treated ourselves.

Mrs Marland: There must be a reason—
[Interruption]

The Chair: We have invited witnesses here and they have come at our invitation and I certainly would not allow them to heckle you if you are were at the table. I would ask the members of the audience to respect that.

Mrs Marland: I think it speaks very well for Dofasco that this is the position you are in with so many people in your employ. When we hear from you this afternoon about the kind of staff you have who deal only with health and safety, and the number of specialists in everything, it is a really impressive list.

When you speak of those areas that are addressed in Bill 208, even though you are doing a lot of those things now, perhaps what you are saying is that you recognize not every organization operates the same way and perhaps there are organizations that could benefit from some of the direction of the bill. But is the difficulty you have, representing your particular corporate entity, that it is like too much legislation always ends up sweeping everybody under the same carpet or tarring everybody with the same brush or however we want to describe it? Is that the difficulty you have with this legislation? Do you think legislation exists today that gives the same protection and may not be enforced?

Mr Mayberry: We share the views or the concerns of the government of Ontario that health and safety are tremendously important. We are also sympathetic to the fact that, yes, there are areas in the province where there are abuses or where a lack of understanding of the legislation on the rights of workers does exist, and we are awfully proud of our program. We work hard at it. We have got a lot of people working hard at it.

We do not want to do anything that will take away from the effectiveness of our program and yet we support the activities if they can create a safer workplace in Ontario. We believe the legislation currently presents the opportunity to be effective if it is enforced. Yes, by all means assist throughout the province in training, assist in helping people understand the rates, assist in scrutinizing and enforcing legislation. But, for heaven's sakes, let us not put in legislation that is

going to take away the effectiveness of the good programs in the province.

Ms Marland: It is interesting that you make the statement, "We are not concerned about frivolous refusals." This is only the fourth day of our hearings. We have heard from the corporate sector that it is concerned about frivolous refusals. I think it is really significant the way you make the point, under item 4 on page 8, that this is not your concern. It is rather that the fact is your expectation of your staff today is that they will refuse to work in any situation they sense is unsafe.

Mr Mayberry: That is a topic we emphasize to our workers, that they have the right, and they do, in fact, stop. We have not experienced irrational activity in that situation. We think our employees are very responsible. I do have a concern—and I invite you to visit our facilities to help understand it if it can help the committee—and it frightens me to think an employee might experience what he perceives to be an unsafe work situation and he has to travel 100 or 200 yards to find the certified worker who will agree it is an unsafe thing so that we can shut it down, because somebody could get killed in the meantime.

We believe that if any worker—it does not matter who—sees an unsafe situation, he or she should stop all activity at that specific moment and correct the problem. We have not found our employees to be irresponsible.

Mr Mackenzie: Do you have a joint health and safety committee at Dofasco or do you have an exemption?

Mr Mayberry: We have an exemption.

Mr Mackenzie: So there is no joint health and safety committee at Dofasco; it is your internal program totally.

Mr Mayberry: Yes.

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Mr Mackenzie: In your remarks, you obviously do not buy the "If it ain't broke, don't fix it" argument that we have had earlier. You acknowledge there are some problems. I am just wondering how you would deal with them. Would it be more by enforcement or how would you deal with the kind of figures that we have had quoted a number of times during these hearings: the 450,000 workers who this year alone have filed claims, the almost 300 deaths, the fact that some 70 per cent of the workplaces are in violation of the Occupational Health and Safety Act according to the government's own figures? How would you deal with this current situation in

Ontario? Do you or do you not recognize that we do have a health and safety problem in the province?

Mr Mayberry: Norm is a bigger expert on the subject than I am. I will let him address that.

Mr Lockington: It is very clear that there are problems, and we have addressed it in the brief. I think a number of the problems are related to a lack of understanding, a lack of clear interpretation of the provisions that already exist in the act. At the same time, there are not clear provisions for companies to develop sound programs, sound training, and we think it would be appropriate to amend the act to build those into it.

The deaths and the lost time are unacceptable and we think everything reasonable should be done to avoid those, recognizing who is ultimately responsible. The people in the workplace who have to deal with it every day are the ones who should be trained, brought up to speed and have to solve the problems.

Mr Mackenzie: That, of course, while you obviously disagree with the method, is exactly what the original version of Bill 208 was trying to do: establish a much better internal responsibility system whereby you were working in a partnership basis in it. The biggest arguments have been the frivolous misuse that might occur if workers had certain rights, and yet you yourself tell us that has not been an experience or problem at Dofasco.

Mr Lockington: I think what makes our situation unique is that we do not have a "we-they" situation. We do not have a bipartite workforce. We do not have bipartite committee either. We think in terms of "us" and how "we" as a group are going to solve our problems together.

Mr Mackenzie: Whether you do or do not have a union—an awful lot of people in the province do not—do you think this automatically makes those workers more irresponsible when it comes to a health and safety issue?

Mr Lockington: I do not understand the question.

Mr Mackenzie: Is there more likely to be a right to refuse in a plant that happens to have a union?

Mr Lockington: I do not have any experience with a union situation. I know what works for us. I know it is very important that we not have a bipartite situation and we have to start thinking more about "us" and "we" together instead of "we" and "they."

Mr Mackenzie: Yet you have asked for an exemption; you have no joint health and safety committee.

Mr Lockington: Actually, what we have is an approval of an alternative program that two Ministers of Labour and the head of the Workers' Compensation Board have both agreed are equal to or better than services provided by a committee.

Mr Mackenzie: So you have no difficulty with the government that we have in place and its agreement to exempt you from the health and safety committees?

Mr Mayberry: They have not exempted us from the health and safety responsibilities.

Mr Mackenzie: They have allowed you an alternative program of your own.

Mr Mayberry: We have had an alternative program that we believe has proven more effective than other programs.

Mr Dietsch: I want to pursue a view that you shared on the top of page 3 in your brief, which basically says the vast majority of people are committed to the personal wellbeing of others and you believe that commitment does not change when they become supervisors. You have had a considerable amount of experience with nonorganized labour in your Dofasco setting. Do you feel that commitment changes between whether the individual is nonunion or whether the individual is union?

Mr Mayberry: No, I do not. I think the commitment relates to the activity within the company, both with the employer and the employee, in terms of training, adherence to safe work practices, ongoing upgrading and training and alerts and communication about the problem. I do not believe union or nonunion has anything to do with it as much as your approach to solving the problem.

Mr Dietsch: Would you agree there are some employers in the marketplace who are perhaps—let me put it this way—poorer performers than others in the health and safety field?

Mr Lockington: There are obviously some people who are poorer performers than others, and some workers who are poorer performers than others. I think it is a question of knowledge, commitment and training. We have to do a better job of training people across the board.

Mr Dietsch: Do you think it would be fair or unfair to create a system of penalties, shall we say, for those who are poorer performers?

Mr Lockington: There are already systems in place that do that: the Ministry of Labour involvement, difficulties in the workplace, experience rating.

Mr Dietsch: The question is, do you agree with that? That is what I am asking you. Do you agree with that as a fair system, to bring those people into line?

Mr Lockington: Yes. If you are asking me, "Should there be more attention to poorer performers?" the answer is yes.

Mr Dietsch: The last question is in relation to an individual who is working in your establishment who cites an unsafe condition. Could you just outline to me, what does that person do? Say I am a person who works for you and I recognize an unsafe condition. How do you handle that?

Mr Lockington: If the situation is fairly straightforward, the employee has the right and the responsibility and we accept his ability to go ahead and fix it himself. If he needs some help, he can discuss it with the supervisor. First of all, he removes himself from the hazard and discusses it with his supervisor. If there is any concern or if it looks like it is going to be a long-term issue, a meeting is held of all the employees in the area who are affected and they sit down as a group, almost like an ad hoc committee, to go about solving the problem.

Mr Dietsch: If there is a disagreement between the employee and the supervisor, you call a meeting? Or do you call the meeting right away?

Mr Lockington: If it is straightforward, there is no meeting, but if there is a disagreement, a meeting is held. It is reviewed and if there is still disagreement, it is referred up through the system and, ultimately, to the Ministry of Labour if that proves to be necessary.

The Chair: Thank you for your presentation this afternoon.

Mr Wildman: We have until 4:30 for this presentation, do we not?

The Chair: We have been adhering fairly closely to 30 minutes for each group. Mr Mayberry and Mr Lockington started at 3:55 so I think we better stick to that.

The next presentation is from the International Brotherhood of Electrical Workers, IBEW, Pat Dillon. We will put the last presentation behind us and move on to the next one from the IBEW. Please introduce yourselves and proceed. The next 30 minutes are yours.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

Mr Dillon: On my left is Joe Mulhall, chairman of the Electrical Power Systems Construction Council of Ontario and business manager of Local 1788, IBEW. On my right is Pat Roach, business manager of IBEW, Local 303, St Catharines. I am Pat Dillon, business manager of IBEW, Local 105 here in Hamilton, and chairman of the International Brotherhood of Electrical Workers, Construction Council of Ontario.

The International Brotherhood of Electrical Workers, Construction Council of Ontario and the Electrical Power Systems Construction Council of Ontario represent 12,000 construction journeymen and apprentice electricians in the province of Ontario.

We are submitting this brief to express our concerns on some of the proposed amendments to Bill 208. Time constraints as set out by the standing committee do not allow enough time to address all of our concerns. However, the IBEW-CCO and EPSCCO endorse the brief submitted by the Provincial Building and Construction Trades Council of Ontario which does address more of our concerns.

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We feel very strongly that the provincial government has misled Ontarians on Bill 208.

The Chair: Could I interrupt you for one second?

Mr Dillon: Yes.

The Chair: I am sorry. Did you give us a bunch of your briefs to distribute?

Mr Dillon: Yes. We have a few more here.

The Chair: It may be our fault up here, but I do not have one.

Mr Dillon: We gave the clerk probably 30.

The Chair: I have one now. Sorry for that.

Mr Dillon: No problem.

The Chair: Okay. Thank you very much.

Mr Dillon: We feel very strongly that the provincial government has misled Ontarians on Bill 208. On a number of occasions, and at least at one joint labour-management meeting at the provincial level, Mr Sorbara promised Bill 208 in its entirety and had warned management that Bill 208 would be the new cost of doing business in Ontario.

The former Minister of Labour had set out Bill 208, which was not exactly what organized labour was looking for, but it had enough substance to gain support from the building

trades workers. Once that support was offered, the Premier of the province called for a cabinet shuffle, removing Mr Sorbara and selecting Gerry Phillips as the new Minister of Labour.

Subsequently, Mr Phillips proposed amendments to Bill 208, which substantially alter the bill to the point where it no longer protects the construction workers in the province as originally intended.

One of our concerns about the proposed amendments relates to the internal responsibility system. The foundation and underpinning of the Occupational Health and Safety Act is what is known as the internal responsibility system. It is our council's position, as well as those individuals and organizations charged with the responsibility to provide health and safety programs in the workplace, that joint health and safety committees are the foundation for implementing the internal responsibility system—a system in which workers and management attempt to resolve health and safety problems internally before injuries and illnesses occur and before an outside agency like the Ministry of Labour has to step in.

If that premise is true and the internal responsibility system and the joint health and safety committees are compatible propositions and not mutually exclusive, then, by extension, the internal responsibility system as we know it is effectively an impotent concept on construction sites since there are no joint health and safety committees.

The internal responsibility system is, as stated, the cornerstone of this legislation. The IRS is built on a bond between the employees and the employer to ensure a safer workplace. As in any other bond, the relationship is built on familiarity with each other, an understanding of the business engaged in and a long-term common goal.

The McKenzie-Laskin report went to great lengths to show the advantages of having this system work in contrast to the policeman-type system in which inspectors are responsible for all safety at all work locations. The changes presented by the government under Bill 106, which was later withdrawn, dealt with the IRS from a point of view of training the persons representing employees to identify and resolve safety concerns. In this legislation, the emphasis for a strong IRS is to make safety professionals, either in the workplace or outside, who will tell the employees what is safe and what is not.

Organized labour took the position almost unanimously that it would support Bill 208 even though the changes did not entirely meet the needs of the workplace. The main reason for this

support is in the transfer of the responsibility for safety to an agency set up for this reason. The structuring of this agency as outlined in Bill 208 gives labour the hope that in time they would have an equal voice in workplace safety.

With the government's proposed changes to the structure as presented by Mr Phillips in his 12 October 1989 speech to the Legislature, it is our belief that the bipartite arrangement necessary for this legislation to be successful would be destroyed.

Organized labour has a proven track record in its dedication to safety. The right to select persons to represent you on the agency is much different than the right to be direct officials, as proposed by the legislation. It is therefore our position that the neutral chair not be enacted; also, that the bipartite structure, as outlined by the first reading in the House, would truly give labour the opportunity to ensure a true and successful IRS would exist in Ontario, and it is this structure that should form the basis of the law.

McKenzie-Laskin also looked at the IRS in terms of the construction industry, and their recommendations stressed the weaknesses of this system for construction. It would appear, however, that Bill 208 does not intend to take this into consideration.

With the changes announced by Mr Phillips, only projects with more than 50 people and lasting longer than six months would get the opportunity to participate in a full meaning of the IRS. This would take into account only a very small percentage of the construction work sites in Ontario.

It is our position that health and safety committees should be established at all job sites where construction is being carried out and that these committees should receive the training necessary to fulfil their responsibilities under the legislation.

In the alternative to this, the health and safety representative, or worker representative as he is sometimes referred to, must take on a new role in the workplace. For the IRS to work on construction, the worker representative must be raised in stature in the workplace to give him a meaningful role to play.

For this to happen, the workers must have some training on the act and on their responsibilities. They must have access to the employers' safety program and have the right to have input into it. They must have the right to inspect the workplace as required.

Their right to identify hazards and report them to the employer must be emphasized, with recognition included in subsection 7(9) that they are allowed time to perform these duties. The 30-day response mechanism proposed by Bill 208 cannot work on these smaller sites because of the duration of the work. There should be a requirement to respond as soon as possible but in no case longer than one week.

The present legislation turns on the worker's right to refuse unsafe work and the Ministry of Labour inspector's right to respond to and resolve these situations.

With the diminished role of the inspector and the strong push to the IRS, the workers should be given the right to consult with their worker representative for advice prior to a formal work refusal. This would allow the spirit of the IRS to function on the smaller sites, albeit in a small, less grandiose way than on the megaprojects.

We believe, because of the distinct nature of the work of the different trades, that it is imperative to have a health and safety representative for each trade. Again, because of the unique situation in construction and the diversity of the work, these specialized reps could deal with the hazards unique to their trade in a very matter of fact and efficient manner.

Recognizing the types of work and the duration of the project, the time spent by any one of these representatives would be minimal. In most cases, only a few of the trades are on the site at the same time, and we feel this would become just another part of job-site planning.

The extension on the right to refuse to work because of a work activity is something that should remain in the legislation. Mr Phillips has proposed to alter the original language and to turn the responsibility for ergonomics over to the safety committee to deal with. Because of our nature and the fact that there will be few committees, this is as good as dropping the proposal altogether. It is therefore our position that this section should be made law. We believe that it is the only way the problem can be addressed in our industry.

Inspections of job sites once a year: The proposed amendments would allow for a job site to be inspected at least once a year. This is inappropriate for construction, as the majority of construction jobs are completed prior to a year and would most likely never be inspected. It should be mandatory for a construction site to be inspected once a week at a minimum.

Joint health and safety committees on job sites with 50 workers or lasting six months: In Mr

Phillips's remarks to the Legislature on 12 October 1989 regarding health and safety committees, he proposed exemptions for construction sites with less than 50 workers or jobs lasting less than six months, effectively eliminating 80 per cent of all construction projects in the province of Ontario.

The experience of this committee is that verity in construction indicates the dangerous jobs are those of a shutdown nature in industrial settings. These shutdowns are labour-intensive, with completion dates that have to be met at all costs. The abovementioned jobs normally have extended work hours per day, which causes major safety concerns in itself, and the duration of these jobs are anywhere from 30 to 90 days. The proposed legislation would exempt these jobs in particular where the inspection is absolutely necessary.

The Chair: Thank you, Mr Dillon.

1640

Mr Mackenzie: I do not suppose the exact figure is absolutely necessary, but in the course of the hearings we have heard that everywhere from about 80 per cent to as high as 95 per cent of construction sites would be not covered if the proposed amendments are moved to change it to 50 and six months. Do you have any idea? Is it within that range or can you come any closer to it?

Mr Roach: We are not exactly sure of how many would be affected, but it is definitely within that range.

Mr Mackenzie: I think you outlined very well the discussions that your people had with the previous Minister of Labour. I take it that you have no trouble with his defence of the bill, as against the amendments that are here.

"Sorbara calmly but staunchly defends the reasonableness of Bill 208 and insists business representatives were involved in the process from beginning to end."

Then he is quoted on the issue of shutdowns for unsafe work by certified reps as saying:

"Some people have the wrong impression that the government is interested in investing in individual workers the discretion to decide whether plant A is going to be operating today or not. That is absolute nonsense. Either we can hire every fourth person in the province to serve as a labour inspector or we can begin a process which in the fullness of time, when fully in bloom, will give us a system where the workplace parties themselves are taking the responsibility."

I think his intent there is to underline the internal responsibility system. Is that the gist you got of the defence or the commitment to the bill from the previous minister?

Mr Roach: Yes, it is. It was our belief that the removal of the inspectors, a process that came about over a number of years, would be replaced by a very strong internal responsibility system that would allow us the opportunity to take over those roles or those responsibilities necessary to ensure worker safety in the workplace.

Mr Mackenzie: When the minister himself appeared earlier before this committee there were remarks in his prepared brief to the effect that there had been consultations with all the parties before he brought in the changes, and in the course of the questioning he admitted that he had not consulted with the construction industry. I am not sure he has ever admitted that in terms of the industrial unions, but they have made it very clear in their briefs that they were not consulted regarding the potential changes he now wants to move. I am hoping there are still potential changes. After some comments today, I am not sure. But I am wondering if you can verify whether there was any consultation whatsoever with the building trades in terms of these suggested amendments.

Mr Roach: Definitely not to our group, and I think that reflects the fact that as far as the structure that is envisaged by Bill 208 is concerned, it is definitely set up for an industrial structure, in our view, and has not taken into account the construction industry. I think that is pretty clear in the proposed legislation, and those are the comments we tried to address in our brief.

Mr Fleet: I appreciated very much your presentation, and there is a part that I think bears some repeating. I am quoting from your brief:

"The IRS is built on a bond between the employees and the employer to ensure a safer workplace. As in any other bond, the relationship is built on familiarity with each other, an understanding of the business engaged in and a long-term common goal."

I thought that was quite succinct, and I completely agree with that. I think that is exactly the intention of the bill. I want to relate that to the conclusions you draw about the appointment of a chairman to the agency. We have had various employer-based groups come forward, and I am going to quote now from another brief we received, although it comes up from a variety of them—almost all of them.

"The agency is bipartite. This imposes a polarized approach from the beginning. Safety

and health issues are far too important to be left to an agency that is based on a bipartite adversarial system. We need an agency based upon a model of joint multipartite problem-solving rather than special interests."

I take that to be an expression of the exact same objective that you have said, although both parties managed to come to exactly opposite conclusions about the advisability of having a chair appointed in the method set out in the bill, which is essentially proposed jointly from members of the board to have a neutral chair.

I guess what I would like to invite you to do is to perhaps depart from the usual language we hear from both sides and just plainly tell me exactly where the system will somehow break down because you have a person, presumably acceptable to both sides, designed to be neutral, aimed at the sole function of health and safety—why that will somehow render the whole agency incapable of dealing with health and safety approaches, given that any responsible employer and any responsible union have the same basic objective, which is a co-operative approach to problem-solving.

Mr Roach: That is a difficult question to answer in a minute.

Mr Fleet: I will ask for an extension of time if you need it.

Mr Roach: If I can answer that it will save you a lot of work, will it?

From our perspective, and I can only speak for the construction industry, our experience is that our relationships with the employers are most successful when we are on an equal footing and we have an equal opportunity for input into the problem-resolving system that we are participating in at that time. No matter what that problem is, the best approach to it is for both of us to sit down, jointly recognize that we have that problem and address that problem from the perspective of resolving it.

My experience is that when there is a third party or someone else who is given the responsibility for administering that, then it tends to give both parties the opportunity to avoid dealing directly with the issue and with resolving the problem.

In our view, we feel that the most successful way of getting at the issue, in this case the safety issue, is to put both parties on an equal footing and allow them to set up a program that is going to function for both of them.

Mr Fleet: One of the problems as I hear it, at least—and I think some if not all of the other members of the committee would acknowledge

this—is that a lot of employers express a fear that the desirable objectives of greater health and safety will be made more difficult if it is a traditional negotiating atmosphere, which is adversarial.

That is one part of the fear that is expressed. The other part is that at least in some instances—I am not generally hearing it suggested that it is going to happen all the time, but at least in some instances—there may be the utilization of these issues for other purposes involved in the collective bargaining process.

Part of the function of the legislation is to create a place where people can perhaps put aside the fears and get down to the business at hand. If that is one of the fears of quite a number of employer groups, then it is important to be able to provide a mechanism to getting the job done and getting past those fears, getting on to the work that is at hand.

Is there any acknowledgement at all that this is a problem we have to deal with? You may feel the fears of employers are not justified, but the reality is that the fears are there, and we are trying to find a means to cope with that so we can get beyond that and get down to greater safety in the workplace.

Mr Roach: I think the fears you talk about maybe are one of the reasons we have the problems that we have in dealing with workplace safety; we have a situation where you have two groups participating in the workplace, the employer and the employees, and you have an issue, which is safety. The fact that you have a system whereby, as you put it, there is a fear that the unions are going to utilize the safety issue to accomplish their own goals or long-term subversive activities or whatever, I think is unfounded. It is necessary to divorce ourselves—and I think that is definitely possible—from that adversarial role in dealing with safety.

I think all of these fears were expressed in the original refusal-to-work provisions that were put into the act, which was going to cause all kinds of havoc in the workplace. I think labour in the construction industry is more concerned about preventing accidents and saving lives than they are about engaging in some adversarial activities with the employers. I think if we can get beyond that, as you suggest, and get on to dealing with what our problems are, then it will be much more successful.

The Chair: Thank you very much.

The last presentation of the day is from the United Steelworkers of America, Local 1005, Mr Emberson. I would ask members of the

audience not to boo or heckle during this presentation.

Mr Fraser: That takes the fun out of it.

1650

The Chair: The next 30 minutes are yours. If you are ready to introduce yourselves, we can proceed.

UNITED STEELWORKERS OF AMERICA,
LOCAL 1005

Mr Fraser: My name is Don Fraser. I am the plant health and safety chairperson for United Steelworkers of America. On my right-hand side is Chuck Emberson, who is the secretary, and Jim Stewart, who helped develop the brief. Brother John Martin, the president of Local 1005, Steelworkers, will be in shortly.

The first five or six pages basically outline the structure of the health and safety committee at Hilton Works, and our philosophy. A lot of that, I think, has already been presented earlier on this week by Stelco as part of its brief, so I will just skip over that, until on page 6 we will start into it.

These are the proposed recommendations and comments on Bill 208 that we put forward to the standing committee on resources development:

1. Who should be covered by the act: We recommend that subsections 3(2) and 3(3) of the act be eliminated. That would bring farmers, teachers, etc, officially under the coverage of the Occupational Health and Safety Act.

2. Who should be covered by joint health and safety committees: We recommend that clause 8(1)(b) should be eliminated and that all workplaces be covered by the provisions of joint health and safety committees, including one of the corporations that has already presented a brief today, Dofasco. I believe Dofasco is the only company in the province that has that exemption from the requirements of a joint health and safety committee. I find it interesting that no statistics were brought forward to prove their point, because we happen to have some statistics.

If you look to the back three pages of our brief, you will see there are three charts. Those charts show frequency, which is a statistic used by the safety associations and the Workers' Compensation Board. The first one compares Stelco Steel at Hilton works versus Dofasco for frequency. The frequency here is based on the number of lost-time accidents, times a million, divided by the number of hours worked. This is for a three-year period. December 1987, you will see Stelco 30.4, Dofasco 37; December 1988, for that year, 27.3 to 40, and up to November 1989, which is the latest statistic that we had, 22 to 35.

The lower the frequency, the better your accident record in the workplace.

If you flip to the second chart, again there is a comparison on a month-to-month basis from October 1988 to October 1989. Again, in black is Dofasco and the striped is Stelco.

If you flip to the third chart, there are charts there for four basic steel companies in Ontario. You will see Stelco Steel Hilton works, and it starts again at October 1988 to October 1989 compared to, beside it, Stelco Steel at Lake Erie works. Then there is Dofasco at the bottom left-hand corner and on the bottom right is Algoma, which I think was recently purchased by Dofasco. I think the committee should note that the three companies with the best statistics are unionized companies represented by United Steelworkers of America. The steel company with the worst statistic is non-unionized and does not have a joint health and safety committee as required under the act but has an exemption by the Minister of Labour (Mr Phillips) from that requirement. I would suggest that the committee seriously think of that and consider that in its deliberations.

Back on page 7, we are talking about health and safety representatives and the size of the committee. Because of the complexity of the health and safety legislation in this province—it is just not simply 47 pages of the act and pertinent regulations; there is other legislation that impinges on health and safety that the committee has to use and worry about—our suggestion is that for workplaces from 20 to 50 people there be at least two and two, and over 50, a minimum of two additional persons for every 50 workers.

There are a lot of workplaces with shift work, weekend work; it is just not Monday to Friday steady days. The more involvement you have on the committees, the more expertise you can develop, and if problems happen on off-shifts, you have people there to represent the workers.

The committees should have co-chairpersons, and all worker members of the health and safety committee shall be selected by the workers in the plant and-or the union as outlined in subsection 8(5). The statistics from the advisory council's report reflect that management is still choosing worker representatives on a committee. I think that outlines how that section has not been enforced by the Ministry of Labour.

The powers and duties of health and safety representatives must be greatly expanded if the Ministry of Labour is serious about health and safety in the workplace. A lot of the proposed recommendations in Bill 208 go that far.

I would like to point out that in a court case involving Stelco Inc, part of the judgement by the judge is in quotes there and is referring to the lack of enforcement by the Ministry of Labour. The quote is:

"I also would have some questions as to the ministry application as far as inspections are concerned. How is it that inspections over all these years and consultations with health and safety aspects have not revealed such defects and noncompliance until this near disaster struck?"

Even the courts now are recognizing that the Ministry of Labour is not enforcing the Occupational Health and Safety Act.

In Hamilton we have had an ongoing situation for the last six months on a construction project where the construction branch and the industrial branch are fighting over this movable fence, who has jurisdiction. We speak to a resolution of that problem later on in our brief.

We recommend that the employer must respond in writing to any recommendations within 30 days. The worker representatives can then appeal the decision if they are not happy with it to the Ministry of Labour.

The health and safety representatives should have the right to obtain information from the employer, etc, on any industrial hygiene testing and to be involved in that planned testing.

The health and safety representative has to have access to all information pertaining to health and safety in the workplace. If that health and safety representative or the members of the joint committee are supposed to do the job that is envisioned under Bill 208 and the internal responsibility system, they need the proper information to make decisions.

Workplaces must be inspected at least monthly. We have been able to negotiate that into our contract as a union. All workplaces must be inspected at least monthly. The inspections are the key first step to identifying hazards and potential problems in the workplace. It is not good having inspections every three months or every six months or every nine months, especially when the Ministry of Labour is now cutting down on its inspections of the workplace.

We recommend that subsection 8(9) of the act should be changed so that health and safety representatives have the right to investigate any accident or near miss in the workplace, not only fatalities or critical injuries as outlined in the act. Most near misses and small accidents in the workplace are a sign of bad accidents to come in the future, and if those accidents are not properly investigated to rectify the situation, then the

more serious accidents happen, fatalities and critical injuries.

Sample language that has been negotiated in our collective agreement between Stelco and the Steelworkers is included in this brief for you to peruse at your leisure.

1700

Committee members must have at least one hour paid by the employer to prepare for any meetings to take place, and in workplaces where they have less than 50 workers, the health and safety representative has to have one day off a month paid for by the employer to handle health and safety items, and an additional one day, paid by the employer, for each 50 workers in the workplace should be granted to health and safety representatives.

For health and safety representatives to perform their function, they must have that time off to properly prepare agendas. They already receive a lot of information under the workplace hazardous materials information system legislation, material safety data sheets, copies of reports etc. If they do not have the proper time to analyse those reports and acts and investigations, then it is just window dressing.

Education and training of the people in the workplace is one of the most important items, and we have found the root of a lot of problems in the workplace is people do not know their basic rights. We recommend that every worker receive a copy of the Occupational Health and Safety Act and pertinent regulations in the workplace. How can you know your rights under the act if you do not have a copy? The law just says you post a copy in the workplace. You can imagine a place like Stelco, Dofasco, 8,000 and 10,000 employees. To comply with the law, all they have to do is post one copy in the workplace and they have complied with the bare minimum of the law. Every worker should have a copy of the act and the regulations supplied by the employer or the government.

All supervisors should receive at least 80 hours' training on health and safety under the auspices of the workplace health and safety agency and be certified as competent under clause 14(2)(b). It already talks about competent supervisors. There are no training provisions outlined in the law for that, and in fact, I do not know, for any order written by the Ministry of Labour, whether a supervisor is competent or not, and what we found is that most supervisors lack health and safety training.

All members of the joint health and safety committee should receive at least 80 hours of

health and safety training so that they will know how to perform their duties as health and safety committee members. In the past a lot of people have been assigned. They have been volunteered to be health and safety representatives or members of the committee for management side and they have not had the proper training to do the job. A lot of time and effort has been wasted in trying to resolve problems. All workers should receive 40 hours of training in health and safety and at least four hours of yearly update paid for by the employer and-or the governments so that workers will understand their rights and what the law is all about so that they can protect themselves.

Section 23 of the act: As far as refusals, we agree with a lot of the positions of labour that the right to refuse must be expanded. If the government is going to rely on the right to refuse unsafe work as a line of defence for workers, then the reasons that workers can refuse work must be greatly expanded so that workers can protect themselves in the workplace.

The act should be clarified that no worker works on a job where a refusal has taken place unless a complete and proper investigation has been resolved. A Ministry of Labour inspector must be called in to investigate before another worker can be asked to do the job. At the present, the Ministry of Labour's position is, if the employer phones the Ministry of Labour and says, "We have an ongoing work refusal here, send an inspector in," at that point in time the company can ask other workers to go on that job and do that job. Our position is, until an inspector has come in and made that decision, no worker should be asked to do the job.

Group work refusals should be allowed so that groups of workers can take action against hazards that affect them. We recommend that where Ministry of Labour inspectors decide that a job will affect a worker's health or safety, then the job stays shutdown until the unsafe conditions are rectified. A lot of times, hazards are recognized out there by the Ministry of Labour inspectors, but corporations or companies are given times and dates for them to comply with the law.

We recommend that no worker or workers who use the right to refuse or who are affected by actions of other people who refuse unsafe work should lose any moneys. That is a threat that is held over workers. Can you imagine all the workers being called into a meeting: "Chuck Emberson is refusing to do this job because of that. We have no work for you. You are all going

to be sent home." The pressure that is put on Chuck Emberson, the refusee, in a lot of cases, forces that worker to back down.

Section 24 of the act protects workers from reprisals by the employer because the worker has acted in compliance with the act. The problem with having a matter of reprisal dealt with under this section is that it is only dealt with through arbitration or collective agreement or the Ontario Labour Relations Board. These processes are legalistic, costly and time consuming.

We recommend that section 24 be amended to give the Ministry of Labour inspectors the powers to investigate reprisals and to be able to write orders that resolve the concerns. The inspector should also recommend, if he finds a violation, that charges be laid against those initiating the reprisals. The inspectors have to be given that right to go in there and investigate reprisals and make decisions on the spot instead of that being dragged into arbitration or before the board.

We believe in the right of the certified worker to stop unsafe work in the workplaces. Dependent on the size of the workplace and whether it is on shift work, you may need one or more certified workers. Workers still get hurt or killed because of unsafe or hazardous working conditions and they are still intimidated, harassed and fired for exercising their rights. Therefore, a properly trained certified member can go out there and protect all workers in the workplace. We outline the training that those workers should have and the number of workers in the workplace. If there is any dispute, the Ministry of Labour should be immediately called in to make a decision.

On the point that if the employer deems that the certified worker has acted frivolously, he can be hauled before the agency and can be de-certified, we do not recommend that employers can do that. Again this is the bogymen that we heard about the right to refuse in 1979. People are going to use it frivolously. In all the presentations I have heard, I have never seen one incident presented where workers have used that right frivolously, and the same bogymen is being raised about the certified worker.

I do not think it is necessary, but if that is put in the legislation, we recommend that if an employer does file a complaint against a certified worker before the agency, the employer must accompany that with a \$20,000 certified cheque. If the complaint is unfounded, the worker that was hauled before the board gets half of that and the agency gets the other half to pay for its

expenses. That would stop employers from using that section frivolously.

The problem with the Occupational Health and Safety Act, as it is right now and under the changes in Bill 208, is the lack of enforcement. I speak from experience. I have been the plant health and safety chairman for nine years now and I have been involved in health and safety since the Occupational Health and Safety Act became law in 1979.

We recommend that if the Ministry of Labour and the government are serious about health and safety in the province, the Ministry of Labour, along with employers and labour, should develop a philosophy and policy about health and safety that sets the standard for the province, Ministry of Labour, employers and labour to follow. We talk in Bill 208 about the corporations developing a philosophy or health and safety policy, but nowhere did I see in there any input from the workforce into that policy. I think the workforce should have a policy and there should be minimum criteria laid out for that policy.

We recommend that the construction, mining and industrial branches be amalgamated into one branch. That way there will be more effective use of inspectors, more effective use of the Ministry of Labour office locations, and complaints and inspections can be handled more effectively and be timely. The same act applies in every workplace. They are just different regulations. In the basic steel companies, the blast furnaces come under the mining regulations. At the moment, the industrial inspectors already do the inspections using the mining regulations of blast furnaces. So that is already happening in the basic steel companies in this province.

We have had a situation in our workplace where we have industrial and construction arguing over this fence. On one side of the fence is the project and every time we get the industrial in, Triple M moves the fence further out and says, "No, that is under construction again." Then we get the construction in and it says, "No, we are not sure where this boundary is, so we are not going to write any orders."

That dispute has been going on for five months, and I think it is a God-damned shame. The Ministry of Labour inspector is an inspector is an inspector. It does not matter what branch. Also, we have situations where, in cities like Hamilton, industrial has got its headquarters on 119 King Street and construction has moved to Century 21, or wherever it has got, and the overhead to maintain two separate offices—that money could be effectively used to have more

inspectors and better trained inspectors in the province.

1710

We recommend that the number of inspectors be doubled over the next two years. It is obvious that there are not enough inspectors in this province to enforce the act as it is now and there is a need for more inspectors in this province with the political will behind them to go out and ensure that the minimum requirements of the Occupational Health and Safety Act are being met.

An inspector should be like just any other worker in this province. If we are going to cover the workplaces, then inspectors should be available seven days a week, 24 hours a day, and if that means they work shifts like we steelworkers at Stelco, so be it. Many a time there is a work refuser on night shift and we cannot get a Ministry of Labour inspector in for four or five or six hours.

We had an incident where there was a fatality in our plant. The police were in, the coroner was in and they did their investigation, the health and safety committee was there, and we had to wait for four hours for a Ministry of Labour inspector to come in. That person's body lay on that floor for four hours because it could not be moved. I have to ask the question, "Where the hell were the inspectors in Hamilton at that time?" That happened on, I believe, a Friday day shift. I think it was a shame. I went in there myself and saw the body lying there. I think if inspectors are going to do their job, there must be enough inspectors in this province.

The inspectors need the proper training to do that, and again, when it comes to the enforcement of the act and laying charges, there is a serious lack of legal help to back up the inspectors when charges are laid. We have outlined four examples where charges have been laid over critical injuries or fatalities in our plant and the delay in justice that is taking place right now. Some of those delays are up to three and four years before they go to trial.

We had a construction worker represented by another union killed on a caster construction project at Stelco. Stelco was charged. Those charges have been heard. The charges against Comstock are going to trial next week, and after that is all over, we still have an inquest to deal with because it happened on a construction project. We are talking about a fatality that happened in August 1987, and now it is January 1990 and some of those charges are still before the courts.

We recommend that the Ministry of Labour set up a task force composed of the Ministry of Labour, labour and employers to develop regulations that spell out the internal responsibility system. Now I have to ask, "What is the internal responsibility system?" because, depending on who you are talking to, you are going to get different interpretations of that. We have asked the Ministry of Labour to show us something in writing on the internal responsibility system. They have nothing.

Well, the internal responsibility system depends on how big, how well trained the union is versus the corporation, and whatever you can negotiate or get out of the corporation as part of health and safety in the workplaces. Believe me, in Ontario there are three sets of health and safety in the workplaces. There is health and safety between big unions and big companies, there is health and safety between nonunion places and companies and there is health and safety in small unionized workplaces and companies. When you get out there in the real world, that is reality out there.

We agree that the fines should be raised to \$500,000, but that is only window dressing unless the act is enforced. Again, judges in the past have stressed that they wish the \$25,000 had been higher where corporations have been convicted five or six times and they can still only impose \$25,000 on them.

We agree with the concept of the Workplace Health and Safety Agency. We recommend equal labour and business with no neutral chairperson. We recommend that the labour representatives be selected by and from the legitimate unionized labour movement in Ontario. The idea to have nonunion labour representatives who are not accountable to any organization will destroy the credibility of the agency.

I doubt that unionized labour will participate in an agency that is set up in a manner where there are nonunionized people representing workers. If companies are so concerned about the unorganized workers in this province, let them put the unorganized workers in the province on the board as part of their representation and not ours. We decide, labour decides who sits on it for our side. We do not try to tell management people who sits on their side.

We recommend that all the safety associations and the Workers' Health and Safety Centre be folded into two organizations with equal funding, one representing labour and one representing the employers. It is about time, with the moneys that are going out to the agency—I

believe the workers' centre gets \$4, \$5 or \$6 million. The rest of the associations are getting \$36 or \$37 million. There is an imbalance in funding for organizations that are supposed to represent labour versus the organizations that represent management.

We recommend that the two clinics remain outside the jurisdiction of the agency and under the control of the present board. The clinics are on a three-year funding on a trial basis. Therefore, this trial should be allowed to run its course, and if successful, the Ministry of Labour should fund more of these clinics in other areas of the province.

In conclusion, we hope that the standing committee on resources development will seriously consider our comments on the Occupational Health and Safety Act and Bill 208.

If you have any questions, we would be happy to try and answer them.

Mr Mackenzie: The brief is well done. I guess my questions are not the major ones, but I do want to get your response to a couple of arguments. We have had an argument made by a number of groups before this committee now that one of the problems in setting up the certified rep situation is that these will become élitist and not truly represent workers. I wonder what your response is to that argument that has come from a number of business groups.

Mr Fraser: I think the certified reps have to be selected by the people whom they are accountable to. On the workers' side, the certified rep is a worker rep and has to be accountable to the workers and selected or elected by those workers. That takes away any doubt about élitism. I think if there is going to be any élitism, it will be on the people certified by the management side, who are usually hand-picked by management and really that is their job.

Mr Mackenzie: Can you elaborate a little bit further on a question that some of my colleagues on this committee have asked of almost all the witnesses: in effect, what is wrong with a neutral third-party chairman?

Mr Martin: If I may answer that, there is no such thing as a neutral person. I beg to put the question back to the committee. Rather than put the people who present this submission on the spot, you tell us in this province where you are going to find a neutral person, if you interpret the word "neutral" properly? I beg the question of you. You tell me where you are going to find somebody neutral who is not partisan to labour or management. If you can research the background, politically, philosophically and econom-

ically, you cannot find, for all intents and purposes, somebody who is truly neutral.

To follow up, Mr Mackenzie, why would this committee want to find a neutral person when the very premise of joint health and safety goes back to employers and workers? In our submission, it is uncalled for, it is unnecessary and, to be quite frank, we do not believe that the Legislature can find a neutral person to deal with this system properly.

Mr Mackenzie: My final question is about the argument we also get constantly that organized workers would, for some reason or another, misuse the right to refuse. You have a tough union with a number of situations. Do you give that argument any credibility at all?

Mr Fraser: No, there is no credibility to that argument. We have had at least 100 work refusals in our plant since the act came into force where a Ministry of Labour inspector has come in and not once has that inspector found that the work refusal was frivolous.

A work refusal is a worker's last line of defence against unsafe and unhealthy conditions in the workplace. Believe me, when a worker makes that decision to refuse unsafe work, that is a big decision for most workers. Most workers, from the time they are hired, are told, "You do what the boss tells you and you grieve later," or whatever. "You ask questions later." That is what is drilled into workers. For a worker to look a foreman in the eye and say, "I'm refusing the work because it's unsafe," takes a lot of guts. If it did not, we would have work refusals every day in our plant, but that does not happen.

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Mr Mackenzie: I know you were around at the introduction of the current health and safety legislation, as I was. Probably the biggest single argument we were getting at that time was that it was going to be abused. Certainly the ministry itself now says, 10 years later, that this has not happened. Can you remember the arguments?

Mr Fraser: I sat as a guest in the Legislature and listened to the debates and the arguments in 1978—I believe it was December 1978—where that was bandied around. I think that if it were a concern to employers nowadays, they would be bringing forward all kinds of samples and statistics about it, but I have not seen statistics brought forward by employers or the ministry that it has been used frivolously.

Mr Mackenzie: Thank you for the accident figures from Dofasco, while we are at it.

Mr Dietsch: I would like to pursue the viewpoint that it is impossible to find a neutral chairman. In relation to an individual, are you telling the committee that it is impossible to be able to agree on a chairman, that labour would not be agreeable to certain individuals? Is that what you are saying?

Mr Martin: You are posing a separate question, Mr Dietsch. You posed the question, is labour opposed to selecting from a panel? The Workers' Compensation Act allows for the Workers' Compensation Appeals Tribunal to select from a panel of medical practitioners, which was decided upon both by the committee and the Legislature, but to get back to the issue of neutrality, if you now go back to my base statement, you cannot find somebody in the field of health and safety who is not biased one way or the other because of the very fact he learned the expertise either through the labour movement or through management. When they go to that chair, they have inbred into them the philosophical views of management or labour.

I presented over 500 cases before the workers' compensation system and I have yet to find a chairperson who is neutral. What the WCAT system uses is lawyers, and lawyers are neutral in the sense that they are inert. They come from an academic process. They do not know the system and quite frankly they ought not to be there.

Mr Fleet: That takes away my question.

Interjection: Is there a lawyer, a good lawyer?

Mr Dietsch: I have a couple of inert people on each side of me.

Mr Fleet: A rose between two thorns.

Mr Martin: If we lived in a sterile environment we would not need the legislation to begin with.

Mr Dietsch: I want to pursue this. I do not mind your comments with respect to the legal profession as I do not come from that profession. None the less, in terms of looking at the realities of neutrality and the views of an individual chairman who is agreed to by labour and the management sector, and is responsible to both parts, management and workers alike, what is this underlying fear you have with respect to his function? We do that in reference to arbitration cases. Labour and management agree to arbitrators.

Mr Fraser: And then if we do not agree, the Ministry of Labour appoints. If you look at the record of cases in arbitration, labour is sure the hell on the short end of that.

Mr Dietsch: The question is, are you saying you cannot agree to a chairman?

Mr Fraser: I do not think they can agree to a neutral chairman. You can agree to a chairman, but can you agree to a neutral chairman? The other thing is, by having a chairman of that committee, what it does is allow both parties not to live up to their responsibilities? Why, as labour, should we make decisions when you let the chair make the God-damned decisions?

Mr Dietsch: Do you feel the workers would not live up to the decisions?

Mr Fraser: People do not have to live up to their responsibilities then because there is a neutral chairperson there who can make decisions. I have sat on joint committees. I fought it out with one of the toughest employers in this province, Stelco Steel. They are a tough employer. We are a tough union. When we sit down and fight it out, whether it is negotiations or on the joint committee, there is no neutral chair there as a referee. We come to an agreement to solve whatever problem we have, whether it is health and safety or whatever, and if we cannot solve that problem, then we go to the Ministry of Labour. If this agency cannot solve a problem, then they go to the minister.

Mr Dietsch: I want to try to understand where you are coming from in relation to your concerns. I want to ask you very pointedly, are you telling this committee that workers would not live up to the agreements?

Mr Fraser: What I am telling this committee is that labour, workers do not want a neutral chair; that is number one. Number two, if you do have a third party involved it allows the other two parties not to fulfil their responsibilities and reach an agreement. Why should you sit down and reach an agreement?

Mr Dietsch: The question was in relation to living up to your part of the agreement. Who is it you are afraid will not live up to their part of the agreement?

Mr Martin: Let me answer that very bluntly. You get a person—I will deal with a little bit of sex for a minute. You have a male and a female in the chicken world, and you have a capon. You get this capon in health and safety that says, "John Martin, you are going to go back to work because I, the capon, have decided arbitrarily that it is safe."

I walk into that workplace and I die. What restitution does my wife and my kids have against you, the neutral person? There is none because you people who select these neutral

people protect yourselves in legislation and do not allow the public the right to sue the pants off the neutral chair for making an improper decision.

If you want to get into that and play with the word "neutral" from the legal perspective, then we are quite prepared to do that but you allow us the right, in case you, the neutral person, makes a mistake, the right to take you to litigation and receive just restitution for an error in judgement.

Mr Dietsch: You still have not answered my question. I am obviously not going to get an answer.

Mr Emberson: On your statement, you are asking, why can we not agree on a neutral chair? Is the issue that we must find someone we can agree on a neutral chair or is the issue that we should solve health and safety problems in the workplace to prevent accidents and illnesses from occurring? The issue is not to find a neutral chair; the issue is to stop the fatalities and the injuries that are occurring in the workplace. That is the issue, not a neutral chair.

Let's get away from this chair and let the two parties sit down and develop those policies and procedures and prevent the problems we have in the workplace today. We do not need a neutral chair. We need people to resolve the issues.

Mr Dietsch: You are quite right when you say the issue is in terms of the accidents and injuries in the workplace and you are quite right that we are committed to moving along, as best we can, to solve those areas. I support what you are saying in that sense.

We feel that many of the presenters have presented the view that additional training will help to enhance that and I think we are on the right track in terms of trying to do that.

Mr Mackenzie: You really raised a red herring, Mike.

Mr Wildman: Just two very short questions: The first is, just where did these figures come from for the charts? You have given us the charts of incidence of accidents.

Mr Fraser: Those are the figures supplied by the respective companies on a monthly basis on their accident ratings. Dofasco's figures are supplied based on 200,000 hours, so you have to multiply that by five to get it up to one million hours which Stelco supplies. Stelco supplies its own figures; Algoma supplies its own; Dofasco supplies its own.

Mr Wildman: Supplied to the ministry?

Mr Fraser: They supply it to the Industrial Accident Prevention Association, to the comp

board and we have the right to get statistics from similar corporations on accident statistics. I am sure the comp board or the IAPA will supply you with those statistics if you want to doublecheck them.

Mr Fleet: I am wondering if you—

Mr Fraser: Are you the lawyer?

Mr Fleet: I am one of the inert ones, yes, as you have described us. I am sufficiently inert that I am going to venture forth here.

I appreciate the vigour with which the presentation was made and the enthusiasm that occurs from time to time in the audience, but there is another side to this. When you want to have sort of a fighting spirit and want to be able to defend having a bipartite process so you can get in there to fight for it, that is rather antithetical to the co-operative spirit that most of the presentations, from all sides, are telling us is the objective of not only the agency but virtually all aspects of health and safety.

I am not asking you to back off your feelings or your views, but I must say that when our duty is to try to get a working result in the agency, it does not help us, quite bluntly, when the fighting spirit is brought up as a demonstration of how co-operative you are going to be. There is a certain inconsistency in that. I will tell you that it is not going to be the most persuasive argument in my view to persuade any given management person, however well intentioned and open-minded he is.

I do not mind your describing me as inert; I will survive the process. We are going to do what we think is right. I am very much interested in doing that. I hope that in some measure there is some understanding of that and I hope you would just take that into account.

Mr Fraser: Perhaps I may respond to two things.

First, in my activities as plant health and safety chairperson for the union for the last eight or nine years, I always found the hardest thing was finding out whether you have a problem and sometimes it takes some open upfront discussion to do that. I have never been afraid of that type of discussion and the people I have dealt with on the company side have never been afraid of that type of discussion. They can give it just as well as we can give it, but once you define what the objective is as the problem, then it is easy to find the solution in most cases.

Second, the four union reps sitting here have had to go in and look at the bodies, have had to go in and look at the critical injuries, have had to face the families when they have said, "Why did

my husband die and why did you not help him?" We have all had to face that. Health and safety is an emotional issue from our perspective because it is our members who get killed.

I hope everybody on this committee will come back to Hamilton on 28 April when we unveil our monument down at city hall to workers killed and injured on the job. We invite you to come here.

The Chair: It is obvious that your membership has vigorous representation in the field of health and safety. We appreciate the very

substantial brief, and also as Mr Fleet said, the vigour with which you presented it and the exchange that followed. Thank you very much on behalf of the committee.

I am sure I speak for the committee when I say I appreciate the fact that a lot of people in the room today feel very strongly about this legislation. At the same time, we were able to conduct the meetings in a very orderly way and we appreciate that very much.

The committee adjourned at 1733.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Chair: Laughren, Floyd (Nickel Belt NDP)**Vice-Chair:** Mackenzie, Bob (Hamilton East NDP)

Dietsch, Michael M. (St. Catharines-Brock L)

Fleet, David (High Park-Swansea L)

Harris, Michael D. (Nipissing PC)

Lipsett, Ron (Grey L)

Marland, Margaret (Mississauga South PC)

McGuigan, James F. (Essex-Kent L)

Miller, Gordon I. (Norfolk L)

Riddell, Jack (Huron L)

Wildman, Bud (Algoma NDP)

Substitution:

Carrothers, Douglas A. (Oakville South L) for Mr McGuigan

Clerk: Mellor, Lynn**Clerk pro tem:** Brown, Harold**Staff:**

Luski, Lorraine, Research Officer, Legislative Research Service

Witnesses:**From the Hamilton and District Labour Council:**

Wilson, David, President

Balloch, John, Chairperson, Health and Safety Committee

From the Hamilton-Brantford, Ontario Building and Construction Trades Council:

Casey, Tom, Business Manager

From the Hamilton Construction Association:

Nolan, J. Cameron, Executive Director

Jupp, Jim

From the Canadian Auto Workers, Local 397:

File, Robert

From the Canadian Union of Public Employees, Locals in Hamilton-Wentworth, Haldimand, Halton Region and Brantford:

Brown, Bill, Hamilton Area Representative

From the Hamilton and District Chamber of Commerce:

Rafferty, Liam, Industrial Relations Committee

From the Canadian Railway Labour Association:

Schweitzer, D. J., Chairman, Ontario Legislative Committee

From the Hamilton and District Home Builders Association:

Ashenhurst, Peter, Director

Mattiacci, Lou, President

From the Ontario Public School Teachers' Federation:

Ende, Rein, President

From Dofasco Inc:

Mayberry, John T., President

Lockington, J. N., Manager, Environment and Utilities

From the International Brotherhood of Electrical Workers:

Dillon, Pat, Chairman, Construction Council of Ontario

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From the United Steelworkers of America, Local 1005:

Fraser, Don, Chairperson, Health and Safety Committee

Martin, John, President

Emberson, Charles, Secretary, Health and Safety Committee





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Legislative Assembly of Ontario



Standing Committee on Resources Development

Occupational Health and Safety Statute Law Amendment Act, 1989

Second Session, 34th Parliament

Monday 22 January 1990

Speaker: Honourable Hugh A. Edighoffer

Clerk of the House: Claude L. DesRosiers

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with a list of the members of the committee and other members and witnesses taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday 22 January 1990

The committee met at 0909 in Ballroom C, Senator Hotel, Timmins, Ontario.

OCCUPATIONAL HEALTH AND SAFETY STATUTE LAW AMENDMENT ACT, 1989 (continued)

Consideration of Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

The Chair: The standing committee on resources development will come to order. We are in Timmins today to continue our hearings on Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act. This was part of the process that the Legislative Assembly has assigned to this committee. We travel the province to a number of centres and have your presentations. At the end of that, the committee then sits down and goes over the bill clause by clause to determine whether there should be any amendments to it. After that has been done, it then is reported back to the Legislature, either amended or not amended, depending on what the committee does, for third and final reading. That is how we fit into that process.

This week we are here today in Timmins, in Sudbury tomorrow and then we move over to Sault Ste Marie before we head back down to southern Ontario. We still have a trip to the northwest to do as well. We have a full schedule this morning and part of the afternoon before we have to catch a flight to Sudbury.

I should introduce members of the committee, since this is the first day we have been in Timmins. On my far right is Mike Dietsch from St Catharines-Brock, and he is the parliamentary assistant to the Minister of Labour. On my immediate right is Jack Riddell from the riding of Huron, Dalton McGuinty in the middle from Ottawa South and Taras Kozyra from Port Arthur. On my left is Doug Wiseman from Lanark-Renfrew, and on my far left is Bob Mackenzie from Hamilton East. There may be a couple of other members joining us later on in the morning, hopefully. My name is Floyd Laughren. I represent the riding of Nickel Belt, which is actually not far from here.

We should proceed because, as I say, we do not want to get behind. We have a rule the

committee has agreed on and that is that there should be 30 minutes for each presenter. That 30 minutes can be used up entirely by the person or persons making the presentation, or they can reserve some time for an exchange with members of the committee. It is entirely up to those people making the presentation.

A minor word to the members of the committee: When you speak, push the button on the machine. Normally we do not have to do that but today we do, so if you wish to speak, push the button down.

The first presentation of the morning is from the Porcupine and District Labour Council. Bill Crockett is with us. If you would proceed and introduce your colleague, the next 30 minutes is yours.

PORCUPINE AND DISTRICT LABOUR COUNCIL

THE LABOURERS' INTERNATIONAL UNION OF NORTH AMERICA

Mr Crockett: I would first like to introduce myself, Bill Crockett, president of the Porcupine and District Labour Council. I wish to share my spot with Ray Doucette, who is a member of the Labourers' International Union of North America. He represents quite a few contractors in the area and his organization represents contractors all over Canada. I feel that my presentation is short enough that Ray will be able to give a little talk on his problems with Bill 208 and we should have some time for questions from the members.

The Porcupine and District Labour Council appreciates the opportunity to appear before the standing committee to address our concerns on Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act. Let us first address some horrific figures that cannot be disputed.

Since the act came into effect in October 1979, more than 2,500 workers have died on the job in Ontario. More than four million workers have been injured on the job since the present act came into effect. More disturbing is the trend to more serious injury. Since 1979, serious lost-time claims have increased more than 30 per cent. Since 1979, the number of permanent disability claims has increased more than 100 per cent. Also, the true toll taken by occupational diseases

is grossly underestimated by Workers' Compensation Board statistics and has been estimated to be as high as 6,000 deaths among Ontario workers every year. We in labour find it hard to believe that with these kinds of figures, the government of Ontario and business, both big and small, can find fault with the amendments labour would like to see implemented in Bill 208.

Labour, throughout the life of the act, has proven time and time again that we have not and will not abuse such powers that workers are allowed through the present legislation. But I will state that we are not satisfied with the way that business is allowed to comply with the act only when forced to. These may seem like harsh words, but again, I refer to the figures on deaths and injuries. It is our belief that not only business but the government has let the working people of this province down. How can you properly police legislation when you do not have the proper manpower in place? It says a lot to the workers of Ontario when there are twice as many conservation officers in this province protecting fish and wildlife as occupational health and safety inspectors protecting workers. Let's look into what has happened to business that has not complied with the act.

The average fine under the Occupational Health and Safety Act in the years between 1979 and 1988 was \$2,346, when the maximum is presently \$25,000 or one year in jail. This is a clear message to the worker that something is seriously wrong. Does the government take our lives for granted? Again, let us turn to figures, and you be the judge.

Reliance on the internal responsibility system, meaning self-compliance, is not working. According to a survey of some 3,000 joint health and safety committees in Ontario carried out by the minister's own advisory council, 78 per cent of workplaces were violating one or more sections of the act; seven per cent of employees with more than 20 workers had not established a joint committee, which is the mechanism for the internal responsibility system required by law; 34 per cent of employers with designated substances, but less than 20 workers, had not established a joint committee required by the regulations; 30 to 40 per cent of the workplaces with designated substances had not carried out an assessment of worker exposure or implemented a control program required by the regulations; 35 per cent of the worker members on joint committees had been selected by the employer, in violation of the act; 40 per cent of worker members and 20 per cent of management

members of joint committees had no training in occupational health and safety.

These figures again lead labour to believe that unless the joint committee is backed up by the Ministry of Labour and unless there are improvements in the legislation, training and integration into the workplace, the joint health and safety committee leads not to self-regulation but rather self-deception.

In closing, we would just like to say that we believe the amendments that labour presented to the minister on 24 January 1989 should not be tampered with. Also, if this minister and his government are sincere in wanting to lower the numbers of deaths and injuries in this province, then they should abide by the wishes of the working people and give us the protection we deserve.

The Chair: Thank you, Mr Doucette.

Mr Doucette: Thank you. First, I would like to thank Bill for sharing this time with me. I represent Local 491 of the Labourers' International Union of North America. We have approximately 250 members in this local and are growing. Our fears are basically in the construction industry and I would like to go on with the brief.

On 24 January 1989, the Liberal government introduced amendments to the Occupational Health and Safety Act, namely Bill 208. This bill contains some very important steps forward.

(a) The need for a mechanism by which workers could participate in health and safety in all workplaces was recognized and the restrictions on joint committees, specifically on construction sites, were to be removed.

(b) Joint committees were to have labour and management co-chairpersons, which would entrench bipartitism as an essential feature of the internal responsibility system. Worker members were to have at least an hour's preparation time for each meeting.

(c) Smaller workplaces, between five and 19 employees, were to have worker health and safety representatives, which is very important to us, as many of our workplaces do not have 20 or more working there.

(d) Each workplace of 20 or more was to have a certified worker member of the joint committee and a certified management member.

(e) All joint committee members were to be trained, and certified members were to have in-depth training to be determined by the agency.

(f) A bipartite labour-management agency was to be established and set standards for such training in the province and determine how

research funds in occupational health and safety were to be spent. Labour would finally have some input into the \$40 million that is currently spent by the management-controlled safety association.

(g) Individual workers would be able to refuse work activities that were unsafe.

(h) Certified worker members were to have, in principle, the right to stop dangerous work, recognizing the need in an internal responsibility system to have a mechanism by which a trained worker member could act to prevent serious injury or death.

(i) Fines were to increase from \$25,000 to \$500,000 or one year in jail.

These above-noted improvements to the Occupational Health and Safety Act seemed to provide a framework which would make Ontario the safest jurisdiction in North America. Unfortunately, on 12 October 1989, the Honourable Gerry Phillips, bowing to pressure from management, proposed a number of takebacks from the original bill which we believe render the legislation ineffective.

The problems perceived by the Labourers' International Union of North America: One of the main problems we have is the definition of "employer."

This act attempts to reinforce the internal responsibility system by allowing for joint committees to be set up in situations where there are more than 19 workers. What is important in the construction industry is to determine what is meant by "employer or constructor." Does one have to have 19 persons on a construction site prior to being allowed to have a joint health and safety committee, or are we to understand that each subtrade must have 19 employees prior to having a joint committee? If the latter is correct, then this would severely limit the instances where joint committees would be allowed in the construction industry.

Recommendation 1: It is our position that any site that has more than 19 workers working on it must have a joint committee and on such a committee there must be worker representatives from each subtrade from that specific job site. Presently, the legislation is not clear as to who the employer or constructor is. A general contractor or project manager, as well as all subtrades, should be seen for the purposes of this act as the employer so that all workers on this site would count with respect to the barriers created by this act in allowing a joint occupational health and safety committee.

Recommendation 2: It is the position of this council that the Occupational Health and Safety Act must apply to the residential sector in the construction industry. There is really no way one can distinguish a residential construction site from a nonresidential construction site. It is imperative that the Occupational Health and Safety Act cover all facets of the construction industry. A construction site is a construction site regardless of final disposition or use.

Inspections: Bill 208 provides that inspections shall be conducted so that they are done at least once in a 12-month period, and that inspection can be limited to part of a workplace. This is totally inappropriate in a construction context in that the construction site is constrained by a start and finish date which could be less than 12 months—some jobs are finished in three months, six months, nine months—consequently leaving the site uninspected.

Recommendation 3: The position of our council is that each construction site must be inspected prior to completion.

Joint committees: Bill 208 mandates that joint committees are required in all workplaces of 20 or more, including construction sites, unless they are expected to last less than three months.

Once again, we are faced with a dilemma of what is meant by "employer or constructor." It is possible that "employer or constructor" would allow for each individual trade or subtrade to have less than 20 employees, and consequently none of these employees or constructors would have legislated joint health and safety committees on site. It is often the case that project managers and/or general contractors have no employees on site and the only employees on site are employed by the various subtrades. Therefore, it is reasonable to believe that on a site of 120 workers, under this analysis it is possible that there would be no legislative reason to have a joint health and safety committee.

It is important to note that the Minister of Labour (Mr Phillips) has, in his speech to the Legislature, created some confusion about the role of the joint committee on a construction site vis-à-vis the role of a certified member on a construction site. The Minister of Labour indicated that a site would need 50 workers and be in operation for at least six months prior to the employer being mandated to have a certified member.

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Recommendation 4: It is the position of our council to support the original amendment which guaranteed both a joint committee and a certified

member on construction sites where there were 20 or more workers that were expected to last more than three months. This support is contingent on the ministry being able to police sites to ensure that the employer does not falsify the length-of-time criterion which provides for the joint committee and certified member.

Appointment of certified members: What is of greatest concern to construction workers is the limitations on the appointment of certified members on a construction site. Bill 208, prior to the minister's speech, was clear that there would be a certified member on all construction sites of 20 or more that lasted longer than three months. The minister's speech seems to indicate that there would be a certified member only in situations where the site was to last longer than six months and there were more than 50 workers. We find that very faulty.

Once again, I refer the standing committee back to our earlier discussions about who the employer is. Clearly, when working at the numbers game, this barrier to joint committees and/or certified members must be on a global site basis, which includes the subtrades, the general contractor and project manager as the employer or constructor. All language that would indicate any other understanding of such a definition must be removed from the act.

It is clear from both Bill 208 and the minister's speech in the Legislature that there is going to be, in the construction industry, a two-step process regarding joint committees and certified members. It is also clear that regarding the certified members in the construction industry, they will be chosen from a pool of certified members. This council is totally against the concept of a pool of certified construction worker occupational health and safety members. We see this as a proposition fraught with problems.

The idea of placing an offsite employee on to the occupational health and safety joint committee would undermine the internal responsibility system whereby workers and management from the same company work together to create a safe workplace. As well, taking a certified member from a pool and placing him or her on an occupational health and safety joint committee to, in effect, supervise the safety conditions of the work site for jurisdictions other than his or her own trade is fraught with huge tension and imminent problems. Allowing a certified member who is a plumber to supervise the safety functions of labourers' work or carpenters' work is clearly untenable, as decisions will be made on

the basis of jurisdictional understanding of work rather than on pure safety grounds.

It is the council's position that on each work site, there must be certified member of the occupational health and safety joint committee from each trade or subtrade and that certified members will have the responsibility for safety on a job site regarding that worker's own trade or subtrade.

The concept of bipartitism in the provincial agency: The agreed objective of Bill 208 would create a bipartite agency which would include the two workplace parties, labour and management, in an agency which would be used as a mechanism for mediation. The agency would be responsible for all regulations and standards concerning safety, safety associations, health and safety clinics which are presently under the aegis of the provincial government.

The minister, in his speech to the Legislature and his musings across the province, has indicated that he wants to impose a neutral chair which would represent the interests of government, a major employer in this province, thereby altering the balance. The whole concept of a neutral chair undermines the pre-eminence of the two workplace parties within the internal responsibility system. This is a further takeback of the philosophy of two pre-eminent workplace parties which must learn to work together to stop the carnage in the workplace. Clearly, the government, and the minister specifically, in recommending this amendment, believe that a third party is necessary to intervene because the two workplace parties are not responsible. Nothing could be further from the truth. The minister must allow this bipartite philosophy a proper chance. There is no doubt in our minds that labour is responsible and will uphold its end of the agency.

The philosophy of bipartitism and the Construction Safety Association of Ontario: In regard to the safety associations, which are to be reorganized so that they have bipartite corporate boards, we are fearful that the Construction Safety Association of Ontario is acting in an irresponsible and dilatory manner. The major problem that is being encountered with regard to our discussions with the CSAO is that although labour is given equal representation in Bill 208, there is no express provision of what percentage comes from the central labour body.

The CSAO is attempting to undermine the spirit of the legislation by asserting that it has the right to include fringe labour organizations on the CSAO board of directors, which is highly prone

and oriented to employer perspectives on labour issues. For instance, the Christian Labour Association of Canada with only 2,000 members across Canada is high on the CSAO list of the labour organizations it wants sitting on the corporate board. This is totally unacceptable, especially if you consider that although the Provincial Building and Construction Trades Council of Ontario and the Ontario Federation of Labour, building trades division, are represented, they have not been given universal status.

Recommendation 7: It is our council's position that in the construction industry all labour representatives on the corporate board of the CSAO must be agreed upon by the affiliates to the Provincial Building and Construction Trades Council and the Ontario Federation of Labour, building trades division.

In conclusion, the minister, in attempting to amend Bill 208, is acting as a minister for management by bowing to pressure from the management lobby groups. The amendments he has proposed in his speech to the Legislature and his musings across the province are aimed squarely at a diminishing role for labour in the internal responsibility process. The minister is expressing a view that labour must remain a junior and nonresponsible member of the duality in the workplace. These latest proposed amendments go to the root of what is fair and just in the workplace and consequently cannot be accepted by our district council or any other local union in Ontario.

Mr Fleet: Thank you for your presentation. I want to deal with the question of the definition of "employer." I know other members will ask questions about other areas, but I guess I am not quite clear where the problem is going to arise. The existing act defines an employer in section 1. Bill 208 repeals that provision and replaces it with something that amounts to an expansion of the existing definition. The only thing that was added on—

[Failure of sound system]

Mr Fleet: The conflict here is that the existing wording is not being altered; it is just an extension. On the other hand if I go to section 4 of Bill 208—that is the one that deals with the provision saying whether the workplace has a certain number of workers—that does not deal with the definition of an employer; it talks about the workplace. So it is the site that determines the number.

As I understand your concern you are wondering what triggers the principle. It would seem to me that the definition here is somewhat different

from the concerns you raised because it says in one provision—I am reading—"for a workplace where fewer than 50 workers are regularly employed." The key word there is "workplace" rather than who is doing the hiring. It is what they are working on, so perhaps you could respond to that point.

Mr Doucette: What we are concerned with is, where does the responsibility fall? To whom does it fall to spearhead the safety? Is it the client who hires the contractor or does it belong to the contractor, who turns around and takes a contract on to a project manager and subs it out to 15 different subtrades, or does every subtrade on the site have a responsibility? His responsibility gets passed down like a dollar, so where does the responsibility lie?

"Who is the employer?" is basically what we are asking, because many times we turn around and contractors say: "That's not my responsibility. I'm just a sub on here; you have to talk to the general." You talk to the general and he says: "We're doing what we have to do. You have to talk to the owner. That is an extra cost or more time." There is always an excuse or passing the buck. We would like a definition.

[Failure of sound system]

0930

Mr Doucette: —on the job site. Is it a subcontractor, general contractor, project manager, the owner who has given out the first package to the project manager or the contractor? We would rather have a clear definition, or even better everybody should be accounted for whether they have one employee, two employees or 50 employees.

The numbers game is very erratic too, because we have had places where we have had two people working, one labourer and one operator. I do not know if one of the brothers is here today, but if the operator had not been there he would have been buried now. He would not be here; he would still be in the ground. He was just lucky that the operator was able to get to him in time.

[Failure of sound system]

Mr Fleet: My understanding of the way the act is structured is that both the contractor and any subcontractor are going to be responsible because the responsibility ties to really all parties and it relates to the site. Now if you have a suggestion about what it ought to be, if it should be different from that, I would be pleased to hear that.

Mr Doucette: I do not have a suggestion at this time, no.

Mr Crockett: Bringing up a scenario, we had a contractor come on the property. We have a joint health and safety committee at the mine, and a very efficient one. We were looking for access to go and police the contractor's crusher. Unfortunately we were not allowed to, and the end result was that one of the contract workers fell into the crusher and to this day is walking around—well, he is not walking around because he lost both of his legs. We felt that if we could have policed that contractor, we might have prevented this injury from happening.

I believe the onus should be on the company that let the contractor on the property, to make sure that contractor is complying with all health and safety regulations. In order to do that fairly, we as a joint health and safety committee felt that we should have been allowed to go and investigate the work area. As I say, I believe that possibly this injury could have been prevented, but the end result is you have a man who lost both his legs.

Mr Doucette: To follow through on what he is saying, we want to stop the passing the buck system that says: "We're not responsible. We're not the owner. We're not the contractor. We're only here on sub." We want somebody to take the onus of responsibility on that project so that if we have a problem, we can go out and say: "You are the main person responsible here. You are the one who can oversee it." This is one of the problems we have.

Mr Mackenzie: In southern Ontario, and I suspect in northern Ontario, one of the problems we have had on construction sites is the fact that we do not have mandatory committees, of course, which is one of the things this bill is trying to get at. I think we had mandatory health and safety committees on Scotia Plaza and on the SkyDome, and that was about it in southern Ontario. One of the consistent complaints that has been brought to my office has been the fact that the workers will have a safety complaint on a construction site, will go to the general contractor if they know him or can, and immediately will be told it is not his responsibility, that it is that of one of the subtrades or subcontractors who have been hired. Is that indeed part of the problem you have in identifying—

Mr Doucette: That is indeed part of the problem. To follow through on what you are saying, I commend you on it. I am saying at least they had it at the SkyDome. We would like to see it not just on major projects like SkyDome; we would like it on every project, no matter what the

size of the project is. We do have that problem, as you say, that the subtrade says—

Mr Mackenzie: Or vice versa. Sometimes the subtrade guy will say: "Hey, it is not my responsibility. It is the general contractor's."

Mr Doucette: Yes, it is not my responsibility, it is Taras's responsibility, and Taras says, "No, it is Dalton's," and Dalton says: "I'm just a contractor. Go to the project manager."

Mr McGuinty: No, I will take it.

Mr Doucette: You would take it, would you? That is a problem, and we would like to eliminate that problem and have an answer as to who is responsible and the government put it down on paper, in black and white, that the owner or the general contractor—everybody who is on site, even if it is a subtrade with only two people—should have to answer for the safety of his people.

Mr Mackenzie: The other thing is that many of us who went through the debate and fight leading to Bill 70—I am talking now back in 1978 and 1979—went through the current argument that we are getting constantly from the business sources that the right to refuse, as limited as it is in that bill, will be abused. For a variety of reasons, we still managed to get the legislation passed in Ontario. I am wondering what your response is to that specifically. Do either of you feel the right to refuse is something that is going to be abused?

Mr Doucette: I have never seen it abused since I have been around in the construction industry. Prior to that I was in mining myself, but in the construction industry I have not seen it abused. I have seen it put to work. I have seen where management has abused it.

Mr Crockett: I would just like to say on the right to refuse, being in a mine, that we have not abused that right since we have had that right. My feeling on the right to refuse is that it is not strong enough. When you have a person who refuses to do the job, management will put you aside and go and find someone else who will do the job. Even though that job has been refused, there are no restrictions to keep management from putting another man in that same position, and I am sure that if it was investigated, statistics would show that when someone else is put in that position there probably have been injuries and maybe deaths caused because an employer has gone and asked someone to do that unsafe job.

Mr Mackenzie: As a matter of fact, we had one rather tragic and dramatic example very recently in St Catharines. At the Gerber baby

food plant a worker who refused the job was moved to an operation down at the other end of the plant. Somebody else was put on the job and just hours later that worker was electrocuted.

Mr Doucette: That is fairly common in the industry.

Mr Mackenzie: One other final question, because I have been appalled at some of the comments of the various construction associations that have been before us: I am wondering what your reaction is to the Niagara Construction Association. I do not think it was quite as bad in Hamilton. We heard similar arguments, but they made the following comment to this committee, "The Niagara Construction Association believes that a unilateral stop-work right as proposed is unnecessary, damaging, creates potential for manipulation by unscrupulous workers and does not necessarily improve worker safety."

Mr Doucette: I think the guy is full of beans to start with. Unscrupulous workers: for anybody to believe that a guy gets up in the morning and looks at his watch and says, "Well, six o'clock, I'll get to the job by eight and find something unsafe and by noon I'll be at the bar," you are painting a picture over many people that does not need to be painted, because we all have scruples. We have families we have to support. We go to work because we like to work. We like to make money. We like to support and give our families the best. We like to go home after we do a good day's work, not to the hospital or to the morgue. We respect that. The Niagara Construction Association, which I find very—the words I cannot bring out right now.

Mr Crockett: We have had the right to refuse for as long as the act has been there and I cannot think of one time that the ministry has laid charges against a labour person for refusing to work. I think the figures probably show that we have been more than responsible with this right to refuse, and the right to shut down, which is in Bill 208, I do not think is unreasonable.

We have proven ourselves that in labour we are educated in this field. I feel strongly that we are more educated than the employer. We have made great strides and we have spent our own money, our members' money, to educate ourselves this way. For any employer to say that we are going to abuse that right—well, I do not think they have our concerns at heart.

The Chair: I wish we had more time to spend with you. We are actually over time already so we really must move on, but thank you very much for your presentation this morning.

The next presentation of the morning is the Canadian Diamond Drilling Association. I saw the gentleman here earlier. We welcome you to the committee. We look forward to your presentation and I think you know the rules. The next 30 minutes are yours.

0940

CANADIAN DIAMOND DRILLING ASSOCIATION

Mr Raymond: First of all, I would like to start off by introducing myself. I am Guy Raymond with Morisette Diamond Drilling. To my immediate left is Dick Kemshall. He is with Heath and Sherwood Diamond Drilling. On the far left is Gaëtan Gagné. He is with Longyear Diamond Drilling.

On behalf of the Ontario members of the Canadian Diamond Drilling Association we would like to thank your committee for the opportunity to present our views on Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

Our industry supports the general principles advanced in the reform. We recognize that a healthier and safer work environment will only be realized through the co-operation of all parties within the workplace and through effective training programs.

While we appreciate that legislation must be structured around standard practices in standard workplaces, unique situations, such as exist in our workplaces, must also be considered.

Before addressing our specific concerns, we feel it is incumbent upon us to outline for you and your committee the uniqueness of our industry and the conditions under which we operate. Although our services are retained by mining companies and a certain portion of our work is performed on existing mine sites, there ends our relationship with mining.

Diamond drilling is not, as many people commonly believe, drilling for diamonds. It is the preliminary step developed to extract rock samples from the earth's core with the use of diamond studded or diamond impregnated tools.

Unlike many other industries diamond drilling is solely reliant on the competitive bidding process. Often the work is not awarded until two or three days before startup of the jobs. Most jobs are of a very short duration, seldom exceeding three months, and the termination of a job remains at the discretion of our client or the vagaries of the Ontario climate.

Even though great technological advances have been achieved, the conditions under which

we operate remain much the same as they were at the turn of the century.

Next to the prospector, we are the pioneer industry that will outline the possibility or the existence of an ore body that may in time become a mine. Our work is physically spread out and our employees do not have the benefits of living in town sites.

Most diamond drilling is performed in remote and isolated locations where conditions are less than hospitable, anywhere from the Ottawa Valley to the Manitoba border and from the Niagara Peninsula to the lowlands north of Moosonee. Every imaginable element is thrown at us. Given a choice, we would prefer to work under ideal conditions. In reality we are expected to drill in 40 below weather, sweltering heat, fly-infested swamps, among other harsh environmental conditions. There are no alternatives.

The mobilization of an average size drill rig consists of moving approximately 80,000 pounds of equipment, including the diamond drill, tractor, sloop, rods, casing, supply pump units, fuels, greases, oils, camps with support equipment and a mini-warehouse with a full complement of spare parts.

We must reiterate once and for all that diamond drilling is unlike any other industry, in part because we are solely reliant on the competitive bidding process, and diamond drilling personnel are unparalleled in any other industry. A diamond drill crew, consisting of one foreman, one runner, two helpers and a cook, expects to be assigned to a contract for a duration of at least six weeks of 12-hour shifts. This close knit group, living in a camp environment, would expect to be changed as a team after that period, and if no other contracts are available, they would seek employment with other firms or in a different industry. It is not unreasonable to expect that in our industry as a whole the manpower turnover exceeds 50 per cent each year. In other words, the diamond driller is a nomad.

Now that you have a better understanding of our industry and the people employed therein, please allow us to express our concerns with, first of all, the bill as originally introduced, the package of proposed changes tabled by the minister with second reading, and the later directive by the minister to your committee to examine other issues.

More specifically, we will focus our attention on the following: (1) mandatory election of designated health and safety representatives; (2) the Workplace Health and Safety Agency; (3) the

safety associations; (4) our right to refuse unsafe work activity; (5) certification; (6) construction sector, and (7) miscellaneous issues.

Mandatory election of designated health and safety representatives: The requirement for the mandatory election of designated health and safety representatives in the workplace in small firms where the lines of distinction may be blurred between the employer and the worker may jeopardize the co-operation required to sustain effective safety practices.

As an alternative, we would propose that each diamond drilling contractor establish a company-wide health and safety committee with at least half the members selected by the workers at large. The size of the committee would be determined by the number of diamond drill rigs operated by each individual contractor. For example, a company operating less than five machines would support a committee comprising of one worker and one employer representative while a contractor operating more than five rigs would be represented by a committee of four, two workers and two employer representatives.

We also propose to implement a system that would allow individual employees to communicate their concerns to their representatives on the committee using forms such as those enclosed in appendix A. I am sorry, but I believe I did not include the appendix. I can mail it to the committee, if you like.

The Chair: Very much.

Mr Raymond: The Workplace Health and Safety Agency: The mandate of this agency will be to: (a) develop requirements for designation of members of committees as certified members; (b) administer the certification process; (c) certify and decertify members of committees; (d) develop and deliver educational training programs; (e) promote public awareness of occupational health and safety; (f) provide funding for occupational health and safety research; (g) police employers, etc.

If we understand it correctly, the agency board will be comprised of the following: one full-time neutral chair, two full-time vice-chairs, two full-time directors, four health and safety professionals and 12 part-time directors.

Our questions are as follows: Is it necessary or just a duplication of services already available through the Ministry of Labour, safety associations and the workers' training centre? What is the cost impact of creating the agency, or can we believe the words of the minister, and I quote, "Funding levels will not be increased," and "No new funds will be required"? Does the cost

impact study bear out these statements? Will copies of the study be made available to the industry? Who will be paying for the office space, probably located in Toronto, the staff and equipment? Again it requires repeating: Is it necessary? Finally, how many injuries are going to be prevented by the creation of the agency?

Safety associations: The requirement for mandatory equal representation with respect to the safety associations could create conflicts that would frustrate the associations' ongoing efforts to improve safety. The proposed changes make it more feasible, but there remain some concerns. Allowing two years for the adjustments is more realistic.

The wording to include workers in the 50-50 split is necessary and a welcome suggestion that should be acted upon. What happens if the quota is not met for whatever reason? What if labour refuses to participate? How will funding levels to the associations be determined? If the agency is created, and in view of the composition and mandate of the agency board of directors, it is our contention that the boards of directors of associations and health worker centres will be redundant.

Right to refuse unsafe work activity: Again the proposed changes are an improvement and we certainly hope that the industry sector would be part of the consultative process when defining work activity more narrowly.

Expansion of the individual's right to refuse to include work activity will increase the potential for abuse and will have a significant impact on the employer. Tell me, who is qualified to assess the impact of a work activity such as stress on a particular worker? Work activities, which in some industries would not and should not be permitted, must be performed in other sectors.

For example, in diamond drilling we could not accept a worker refusing to move the drill from one location to another in 40-below-zero weather because, as mentioned earlier in our presentation, we are contracted to perform this work on Ontario soil during Ontario winters. The worker is fully aware of his duties and the conditions he will encounter. We cannot control weather and, to the best of our knowledge, neither can legislators.

0950

Certification: The requirement to phase in the certification training and have sector-specific training for committee members is commendable and practical in some sectors but not always. Some sectors with small fragmented workforces will have difficulty with this. Who will supply

the training: the workers' training centre, the agency, the associations? Where will the training take place? Onsite? In remote locations? How long will it take to train a new employee or employer representative uninitiated in health and safety matters as a certified member? How long does the industry have to get a new member certified when it becomes necessary to replace a new member for whatever reason?

We realize this is not the place for all our answers, but we would appreciate being part of the regulation-setting process.

Construction sector: We agree that the bill must make exceptions when certain special conditions exist. For the construction sector these exceptions are commendable and practical. As an industry, we feel very strongly that we meet and exceed these exceptions. As mentioned earlier, we have a better than 50 per cent turnover rate. On average our contracts last six weeks. We operate across this great province under very harsh conditions. In short, we fall under these exceptions and should be included as a special sector.

Miscellaneous issues: I would like to take just a few more minutes to comment further on issues presented to your committee for consideration.

The authority to stop work: We think it should be a joint decision, and only a joint decision, by both members before a work process is shut down. Giving a certified member unilateral authority to stop work is contrary to the spirit of the joint approach to health and safety and could lead to major conflicts and work against the intent of the legislation. Also, giving the agency the right to determine whether an employer's safety and health practices are sound could be inappropriate. What would it use as a measure? This is a broadening of the certified member and the agency's mandate, and decisions with the potential magnitude of this nature must reside with the Ministry of Labour.

In conclusion, the Ontario members of the Canadian Diamond Drilling Association would like to thank the chairman and the members of the standing committee on resources development for having allowed us to present our views on such an important issue as Bill 208. Admittedly, we are a low-profile industry; nevertheless, we do entertain high-profile concerns when it comes to our workforce and our operations.

We applaud the government's efforts through the bill to provide healthier and safer Ontario workplaces. It is our opinion, however, that some of the present proposals in this bill could have an adverse effect on the very problems they

attempt to address. It is also our opinion that the proposals, if implemented, will increase the cost to the employer in spite of assurances that the proposals are revenue-neutral.

Because of the distinctive nature of our industry, we require bold, innovative initiatives to deal with our health and safety concerns. We have taken great strides and are prepared to do even more, but need legislation that works with and not against us to achieve even further improvements.

The Chair: Thank you, gentlemen. Since we started this morning, we have been joined by three more members: On my right, David Fleet who is from the riding of High Park-Swansea in Toronto; further down the row, Doug Carrothers from the riding of Oakville South, and a person I know none of you know, Alan Pope from the riding of Cochrane South. I think those are the only people who have joined us. Mr Mackenzie and Mr Dietsch have questions.

Mr Mackenzie: I have three areas I would like to raise with you. You may or may not have a point on page 5—I would like to talk to some other people—but you do seem to be agreeing to one worker and one management rep. The mechanics of your industry may require a slightly different approach in terms of coming up with the health and safety reps who are to receive the certified training.

The areas I have some problems with are on page 6. At the moment you are not understanding it correctly. The agency board will not have a full-time neutral chairman, that is, as of this moment. One of the government's suggestions, of course, is that a neutral chairman be appointed, but at least at this moment in time, we are not dealing with a bill that has that as one of the recommendations. I just wanted to bring that to your attention and ask you the question dealing with the following paragraph where you are concerned about the funding levels.

I think everybody is concerned about funding today, but can we really develop new health and safety legislation in Ontario with funding as the major criterion? It has been one of the big arguments against many of the changes in health and safety in this province, and I myself have doubts that it will be revenue-neutral, but can that really be the priority?

Mr Raymond: I do not say that it should be a priority. By the same token, if you look at legislation or at the creation of boards and committees—it is something like the government's own advertising for the lotteries, how to get more bang for the buck. I think it is how you

spend the money that you are going to get a better program.

The first point that you raised about the neutral chair was that we agree with the proposed change that was tabled at second reading.

Mr Mackenzie: Okay, so that was the point I was getting at. But the bill as it stood—you do not support the bill with the changes. I take it you do.

Mr Raymond: Some of it, as mentioned.

Mr Mackenzie: The other point I had was on the right to refuse or authority to stop work under "Miscellaneous Issues." You say it should be a joint decision by both members, the management and the labour member on a committee. Can you tell me how you would ever get acceptance of a right to refuse if the management member on that committee has the right to contravene the worker member on that committee.

Mr Raymond: The internal responsibility system has proven that in fact a joint decision does work. It is even more critical in our industry where we may be building up by the Manitoba border or our headquarters in Haileybury and, if there is a problem created, then we have to jump on the train to go solve it, if there is only one person on board.

I would certainly like to have my company representative along with the other and have two people there to resolve it, but it has not been an issue with us up to now. That system works. We have not had any problems as a result. It certainly is a joint system, and I think that is the whole basis of your internal responsibility system.

Mr Mackenzie: I think to some extent you have answered the concern I have; we have not heard evidence, and we have had it not only from workers, but from people as high as the president of Stelco, that the system of the right to refuse, to the extent to which it is currently enjoyed, has not been abused. Why then would we deny that right, which is exactly what you would do if your suggestion was carried out here when we have no record of abuse?

Certainly, if you had been at the hearings of this committee, not just the one hearing that you heard prior to your presentation, both the figures in terms of health and safety accidents and the evidence from worker groups across this province is that they are not satisfied that the internal responsibility system is working. As a matter of fact, it is the reason for this bill.

Mr Raymond: If you look at the statistics in the mining sector where the internal responsibility system is very prominent, the frequencies will bear out that the system jointly can be made to

work. When you are meeting in Sudbury tomorrow—I guess you are meeting in Sudbury—that will be pointed out very evidently. The mining sector has had an exemplary reduction in the number of accidents and most of that is attributed to the fact that there are joint health and safety committees and they work very well.

Mr Mackenzie: They also, at least in a couple of cases, have the right to refuse, which they have been given and negotiated through those contracts.

Mr Raymond: Some of them have that, yes, and like I said, in some industries it may work, but in some other specific sectors it may not.

The Chair: Mr Dietsch, can you leave a couple of minutes for Mr McGuinty? I know he would appreciate it.

Mr Dietsch: Yes. In your current system right now you have a health and safety committee?

Mr Raymond: Yes, we do.

Mr Dietsch: And in terms of the kinds of injuries and accidents, what is your current record?

Mr Raymond: For the last three years the diamond drilling industry has had a very good decrease in injury frequencies. I would say that basically in the last three years a lot of diamond drilling industries have put safety people on board and brought in personnel people as well.

Mr Dietsch: I am a little bit concerned about the wording of the bottom of page 5 where you talk about the mandatory election of designated health and safety representatives. In the body of that particular paragraph there you say "in small firms where the lines of distinction may be blurred." Why should the lines of distinction be blurred?

Mr Raymond: If you have a small corner store or a small business where you have two or three members of the family working for you, I think it is self-evident that if you have a neutral person working and you have somebody from the family, there is a vested interest in that case, especially where the intent would meet only the requirement for five.

Mr Gagné: I would just like to add that in our industry, for example, on a difficult job we have a foreman, a supervisor, a runner, a drill operator and then he has a helper. The runner, for example, has authority over the helper. He is none the less a worker as defined by the act, but he has a certain amount of authority over that worker. The lines of distinction there are not very clear. That is part of what we are referring to.

Mr Dietsch: So you feel that allocating the responsibilities or having the workers themselves allocate the responsibilities for safety as to one of their colleagues would confuse.

Mr Gagné: It might. We are not saying that it will in every case, but it might.

Mr McGuinty: On page 6 you refer to an appendix. If it is feasible, I would like to see that. I think it is a good idea. Mr Pope keeps us fully aware that things are different in the north, but I never thought that diamond drillers were authorized—

[Failure of sound system]

Mr McGuinty: I think it is a good idea and I would like to see the form.

Mr Raymond: I will send it. I failed to attach it to the brief and I will certainly make sure that everybody gets it.

Mr McGuinty: Yes, I will get a copy to the college of physicians.

The Chair: Okay, if there are no more questions, thank you very much for your presentation, gentlemen. We do appreciate it.

As people know, the proceedings are being recorded by Hansard and they are even going back to Toronto on the phone lines. We have had some problems this morning and they have asked us if we could take a five-minute break while they sort out the equipment and make sure that it runs smoothly from now on.

Mr McGuinty: Could I raise a question of procedure? We are limited to 30 minutes for presentation and/or questioning. Should there not reasonably be some time limit on questions and debate that has been ensuing with one member of the committee who tends to dominate the time? A bit of fair play?

The Chair: Right. Let me tell you I have tried to make sure that the time is split evenly among the three parties, if the three parties so wish. I try and make sure that no one party takes more than its fair share, but sometimes it is very difficult to control. I really do try and make sure that no one party dominates the question.

Mr McGuinty: No personal offence intended.

The Chair: All right. We will take a five-minute break and try and sort things out.

The committee recessed at 1003.

1011

The Chair: The standing committee on resources development will come back into session. The next presentation this morning is from the Canadian Paperworkers Union. Is Ray Seguin here? I believe someone else is joining

him, Mr Altobelli. Gentlemen, we welcome you to the committee. The technical people tell us that we should all push the button when we wish to speak. We think we have got the thing sorted out now. When you wish to speak, push the button when you are talking and push it again when you are not talking to shut it off. Welcome to the committee. If you would introduce your colleagues, we can proceed.

**CANADIAN PAPERWORKERS UNION,
LOCAL 89**

Mr Seguin: I would like to introduce, on my right, Jerry Woods, staff representative. He is out from Fort Frances. On my left is Enzo Altobelli, from Kapuskasing, Local 89. Also, he is the president of the Kapuskasing and District Labour Council.

The Chair: And you are Mr Seguin?

Mr Seguin: I am Mr Seguin, Local 37, Waferboard Corp, a division of Malette Inc.

On behalf of the 2,300 members of locals 32, 39, 89, 90, 109 and 256 of the Canadian Paperworkers Union, welcome to Timmins, an important centre of Ontario's northern economy. We know that you are only here for a few hours and we regret that you will not have the opportunity to tour our workplaces, especially as they are examples of the need for greater efforts in occupational health and safety.

Our members work at the Spruce Falls Power and Paper Co in Kapuskasing, at Abitibi-Price in Iroquois Falls and at Malette Inc in Smooth Rock Falls. On their behalf, we appreciate the opportunity to address you directly on this issue, which is of immediate and vital importance to us. All of us personally know many victims of unsafe working conditions, and those of us who have been lucky enough to escape this fate so far know that we could be next. Our occupational health and safety problems are many and they are severe. In our mills, injuries and disabilities are commonplace. Back injuries, hearing losses and amputations of fingers, hands and arms are all part of our experience. We are all in favour of any law, any regulation, any policy that will stop or even decrease these injuries.

Bill 208 falls short of our expectations. Here, in brief, are the major problems we see in Bill 208, not necessarily in order of importance.

1. Certified members should be required to look into all workers' complaints. While the certified member of the health and safety committee may investigate workers' concerns, this is not good enough. Furthermore, it is inefficient. It would be far better to require an

investigation of all complaints rather than to give a concerned worker the option only of refusing to do the work, which stops production and causes conflict.

The certified member should not have to request permission to investigate a complaint, because then he or she is subject to pressure from the employer to delay the investigation on the grounds that it is not really that serious. If the law is designed to promote an internal responsibility system, then the law should give sufficient authority to those who are responsible to carry out their duties without hindrance. It is not logical to give someone a responsibility without authority.

2. The right to stop work should not be limited to situations in which the law and regulations are being violated. Bill 208 says that certified members can only stop work if there is an immediate danger and the law or regulations are being violated. This would only make sense if you believe that those who write the law and regulations have already thought of every possible dangerous situation and have written a regulation about it. This is simply not possible.

If a worker is ignorant of a dangerous situation in which he is working and therefore does not exercise his right to refuse, the dangerous situation can continue as long as it does not violate the law, which is vague, or a regulation, which is normally very specific. What is the point of giving special training to these certified members if they are handcuffed by the fact that there is no regulation covering a specific dangerous situation?

If there is any doubt that a regulation exists which covers such a situation, can we really afford the time to check it out? Think about it for a moment. There are about 150 regulations for industrial establishments, many of them quite complicated. No one can memorize them all, and even if he could, some of the regulations must be interpreted in a specific situation.

A certified member who can be disciplined for irresponsible use of the authority to stop work may hesitate before halting a hazardous situation if the regulation is not clear. Is there a lack of confidence in the integrity of workers who have demonstrated their concern for occupational health and safety? If not, then they should be allowed to use their judgement and their training to stop any dangerous situation, regardless of what the law and regulations say.

3. Management-certified members should not be allowed to start work that has been stopped. This is another example of where Bill 208

assumes that the labour-certified member will act irresponsibly and needs to be checked by management. This is an insult to labour, which has done more to protect the lives and health of workers in this province than any law. Indeed, the laws we have would not exist if labour had not continuously agitated for them.

This provision of Bill 208 presumes that management knows more about health and safety, the law and the regulations than specially trained workers. Where is the evidence for this? If there is no evidence that this is true, and there is none, then this part of the law is simply nonsense.

Once work has been stopped by a certified member, it should not be restarted unless there is an agreement between the labour- and management-certified members, or an industrial health and safety inspector orders the work to be started.

4. Workers who cannot work because of a stop-work order should be paid. If a group of workers goes on an illegal strike supported by its union, the employer can sue to recover damages. If an employer breaks the law and workers lose pay as a consequence, they have no recourse. There is something wrong with such a system of justice.

Surely if an inspector finds that the law or a regulation was violated and caused a dangerous situation which had to be stopped, the employer, not the workers, should pay. Is there anyone here who disagrees with that? If so, we would appreciate hearing your views, because to us this is a mystery. The obvious effect of this injustice is that certified members will be put in the position of having to rob fellow workers in order to save them. This is not fair and will not encourage the responsible use of the authority to stop work.

The other side of this is that workers who must stop working when another worker has refused unsafe work are not paid. This sets up an unjust conflict between money and safety. A law that forces people to choose between those two is a bad law, especially if those who are affected have no control over safety.

5. The entire workplace should be inspected at least once a month. The actual cost of inspecting a workplace is quite small. When compared with the potential for preventing injuries, it is meaningless to even discuss it. Regular inspections not only prevent hazardous situations from developing, they also create a greater awareness of occupational health and safety on the part of the workers who observe and participate in the

inspections. This is a very inexpensive method of educating workers and management alike.

Some parts of some workplaces need to be inspected every single day, but it is a rare workplace where every part is safe for 12 months. That certainly does not describe our mills, which can be quite hazardous.

1020

6. All chemicals used in the workplace should be tested. Under Bill 208, it will not be necessary to have a chemical tested if it has ever been used anywhere else in the world. Let's be realistic. What do you suppose the standards of industrial chemical testing are in some countries where "human rights" is not even in the dictionary? Many employers who operate in Canada also operate in underdeveloped countries. The temptation to use effective but hazardous substances will always be there.

Our industry uses a lot of chemicals, some of them very hazardous. We have the right to know what we are working with, what protection is sufficient and what the effects of both long-term and short-term exposure may be. The law should require the testing of chemicals that have not already been adequately tested in North America. We do not want to stand in the way of progress, but as we all know, many substances that were thought to be a dream come true later turned out to be nightmares.

7. Workers who have reasonable grounds to refuse unsafe work should be paid. Since the law explicitly says that refusing workers will be paid during the first stage of the two-part refusal process, the meaning is clear that they need not be paid if they continue to refuse, even if they have ample grounds for believing a job is unsafe. This is dangerous, not just to a worker who may be injured in an unsafe situation but to co-workers who may be at risk. A worker has a right to refuse to do work that is likely to endanger the health or safety of another worker. If such a worker is in no danger himself and will lose money, another worker at risk, the possibilities are obvious. We feel extremely strongly about this.

If an inspector rules that the refusing worker did have reasonable grounds to continue to refuse work, even if it turns out that the work was not, in fact, unsafe, then that worker should be paid. Of course, the worker and the employer would have the right to appeal the inspector's order. Anything less is a signal to workers that, "Yes, you have the right to refuse unsafe work, but think twice about your paycheque before you use that right."

8. Once an unsafe job has been refused, no worker should be assigned to that job until the situation is resolved. If there is some doubt about whether a job is unsafe and is likely to endanger a worker, we should err on the side of caution. We doubt that the ministry keeps statistics on workers who were injured after being assigned a job that was refused, but we think such information is important. If both the refusing worker and the health and safety representative believe a job is unsafe, no one should be assigned to that job until the situation is resolved. This would be an incentive to employers to fix potential hazardous situations immediately and not wait to argue it out with an inspector while production continues.

Workers' lives continue to be cheap. You do not need us to recite once again the terrible statistics on the number of fatalities and permanent injuries suffered by workers every year in Ontario. You should have these memorized by now. Does anyone here honestly think that Bill 208 is going to significantly reduce this tragic human toll? If so, how? Even the new rights, such as the right to stop work and the right to refuse unsafe work activities, are very, very narrow. In our view, the government is not serious, otherwise the legislation would reflect it. Bill 208 confirms our belief that in Ontario life is cheap, profits are sacred.

Why bother with these hearings? Almost a year ago this same committee was here in Timmins hearing our views on Bill 162, which drastically changed the Workers' Compensation act. You travelled practically everywhere in Ontario and heard many complaints and suggestions about that bill. You ignored them all. While we appreciate this public forum to air our urgent concerns, we are cynical about the process. In the future, if the government really has no intention of changing legislation which effects the lives and safety of workers, regardless of what those workers think, then please have the decency to just say so and not waste our time.

In this situation, though, we are still willing to extend the benefit of the doubt. Please consider carefully what we and other workers are telling you. Do not get locked into positions that are wrong just because you do not want to be seen to be bowing to pressure from labour. Think of the standards of protection you should want for your children or grandchildren. Take the time in the future to visit our mills. Then ask yourselves seriously, "Is this law good enough?"

The Chair: Thank you, Mr Seguin.

Mr Dietsch: I want to talk to you about in your brief on page 2, I guess, or item 2 at least, in reference to your comments on the right to stop work. In your second line of your brief you say that—pardon me, I will just read the first two lines. It says, "Bill 208 says that the certified member can only stop work if there is an immediate danger and the law or regulations are being violated."

My interpretation of the act is a bit different from what you have spelled out in that particular sentence. I am curious to know your beliefs in terms of when the law or regulations are being violated, because in the act it specifically says, "23(3) A worker may refuse to work or do particular work where he has reason to believe that," and then it lists a number of areas, "(a) any equipment, machine, device...; (b) the physical condition of the workplace...; or (c) any equipment, machine, device or thing..." Where is it in your interpretation that you are referring to the law?

Mr Woods: I can answer that, Mr Dietsch. There are many instances in the workplace where people have complained about the mere fact of working alone, which in a lot of instances is a very real danger to people working in an industrial site. The act does not speak to those types of things. We can cite you a number of instances where our members were forced to work alone because it was not considered to be an immediate danger, and as a result of that it cost them their lives.

The Chair: Mr Dietsch, may I interrupt for one second, please. Sorry. Mr Altobelli, was it your intention to present your brief at this point as well?

Mr Altobelli: Since the time is very restricted, what we will do is hand the other brief in for the committee.

The Chair: Okay, so we will accept it as a written brief. Sorry, Mr Dietsch.

Mr Dietsch: Basically you are looking at the aspect of working alone as being included in other parts, not only in this particular area.

Mr Woods: That is one example.

Mr Dietsch: Okay. In reference to refusals to work on your job site, how many refusals to work have there been in your particular instance on the jobs you are familiar with?

Mr Seguin: I would say somewhere around maybe five to seven in the last three or four years.

Mr Dietsch: Five to seven work refusals in the last three or four years.

Mr Seguin: That I am aware of.

Mr Dietsch: How were they resolved?

Mr Seguin: Basically always in the same way, with the employer refusing to admit that it is a refusal. They just dismiss that it is a refusal. They keep arguing that it is not a refusal. The inspector walks in and they still argue with the inspector that it is not a refusal. The inspector has issued the orders concerning that but no charges have been laid or anything like that.

We just had one recently about a month ago where again the employer says, "According to the act, if the employee refuses and I or the supervisor can rectify the situation, then you don't need to call the committee." Our interpretation of it is that once the worker has refused, the committee has to be called in to investigate the work refusal.

Mr Dietsch: What company do you work for?

Mr Seguin: Mallette Inc Waferboard Corp.

Mr Carrothers: I wonder if I could get your comments. We have had a number of witnesses come before us who seem to be operating pretty safe workplaces and the characteristic that seems to be common in those circumstances is co-operation. Basically, there do not seem to be sides. When something gets brought up, it gets dealt with. One thing these employers have been putting before the committee is that they are claiming that by putting forth a piece of legislation that gives a right to make decisions on one side of that equation, this co-operative workplace they have established and that seems to be working well—they certainly seem to have pretty good safety records—will be destroyed. They are suggesting that is a retrograde step. I am wondering if you had any comment on that.

Mr Seguin: I do not see that it will be destroyed. The ministry is aware that there has been an appeal on the workplace hazardous materials information system in our workplace, so there was no co-operation there, and the ministry stated in its findings that our employer is very reluctant to co-operate when it comes to our workplaces.

Mr Carrothers: What you are saying is that you do not have that co-operation in your workplace—

Mr Seguin: No, we do not.

Mr Carrothers: —but you do not want to speculate on workplaces where that co-operation might exist.

1030

Mr Seguin: I only have the experience of my workplace. If there are other workplaces where they do co-operate—I am sure there are some, but in our workplace there is no co-operation whatsoever.

Mr Mackenzie: I know we have had a couple of examples before this committee in the paper industry of some particularly nasty accidents in the last year. I am wondering if you can tell us what the record is in terms of injuries or deaths to management people in your industry. Are there very many management people who end up with injuries or death in workplace accidents in your industry?

Mr Seguin: In my workplace I am not aware of any injury or death to management. Jerry, do you know?

Mr Woods: That is an interesting question. The fact is that management people are very careful about their health and safety and not so careful about the health and safety of the people who are working for them. As a result, I have never seen a management person with an injury in the mill in my experience, and I have been working in the mills for some 27 years.

Mr Mackenzie: It is an argument that has been made by others before us. I have one more question and that is, the internal responsibility system gives slightly more authority to the workers in a joint committee in an unsafe situation, but it also clearly states that if a worker abuses that right and the evidence shows he has abused that right, that worker can be decertified for life. Knowing the interest workers have taken in safety and health training, which has certainly increased in the last few years, can you see that as yet another serious reason why a worker would not abuse that right?

Mr Seguin: Yes, I see it as very serious because once you are decertified for life, that is it. You cannot go in there again and express your views on health and safety and never come into that position again.

Mr Mackenzie: I have a number of other questions, but in the interests of time my questions will be serious, all of them, when I ask them.

Mr McGuinty: Ray, I thank you for a very fine brief, but I respectfully suggest that you do yourself a disservice by your conclusion. I am glad to see that you—

The Chair: I am sorry. Would you mind leaning forward a bit?

Mr McGuinty: Not at all, I would not want anybody to miss this. The mike is on I think?

Ray, I thank you for a very fine presentation, but I respectfully suggest you do your position a disservice, although you do give us the benefit of the doubt. I can assure you that no one political party has a monopoly on concerns of the kind you reflect. Some of us have had experience as labourers. My father was a labourer and I have seen some horror stories, the kind to which you have alluded. I did not come to Timmins simply to pass the time. I think we take a presentation such as yours very seriously and I thank you for it.

Interjection: Proved that on Bill 162, did you not?

The Chair: Order. Please give the gentleman time to respond.

Mr Seguin: I think what I wanted to say came from outside here. On Bill 162, when we presented on that we specifically made a little note at the bottom of one of the pages that the leg of one of our workers was amputated and the employer violated at least three sections of the act, was charged by the ministry, and for some reason, a technicality, the employer never was charged and got off scot-free. We were told by the ministry that it could not put the charges back because of the section in the act that specified it has to be done within one year, and because that year had passed they could not be charged.

That man lost his leg from the knee down. The employer never advised the trade union of the accident. The employer never advised the Ministry of Labour. It was a critical injury. All the workers were ordered to pick up the flesh and blood. No one was notified and they restarted the plant. Nothing was done. The employer just said: "That's it. That's okay. You can go on and do your work and no problem." This is the type of thing we put in on Bill 162 and this is the type of thing we are putting in our brief again, that the law did not provide justice in this case.

The Chair: Mr Seguin, Mr Woods, Mr Altobelli, thank you very much for your presentation.

The next presentation is from the Forest Products Accident Prevention Association. Gentlemen, we welcome you to the committee. I think you know that the next 30 minutes are yours. If you will introduce yourselves, we can proceed.

FOREST PRODUCTS ACCIDENT PREVENTION ASSOCIATION

Mr Nugent: The Forest Products Accident Prevention Association is pleased to participate in this hearing process and to present our views

on the proposed amendments to the health and safety legislation of Ontario.

Mrs Patricia Grant, our president, extends her regrets for not being present this morning. She was to do this. She has come down with the Shanghai flu and I can appreciate how serious that is because I am just recovering from it.

Roger Lacroix is an executive director and a past president of our association and he is the general manager of Normick-Perron Inc in Kirkland Lake. I am Jim Nugent, the general manager of FPAPA, from North Bay.

When this legislation was introduced in 1989, the FPAPA was supportive of the intent of the proposed amendments and so advised the minister at that time. We hope this presentation will be helpful to the committee in its deliberations and final recommendations.

What we would like to do is to give you a brief history of the association, its structure, what it does, how it operates and the results of the training programs that we are involved in, as well as some recommendations on the bill itself.

First of all, the history: The Lumbermen's Safety Association received its letters patent on 4 February 1915 and had the name changed to the Forest Products Accident Prevention Association by supplementary letters patent on 27 December 1962. The association's role has evolved from that of a safety inspectorate to that of a health and safety education and consulting service for the three rate groups in its membership. Currently there are approximately 2,400 active member firms in logging, sawmilling and the veneer plywood industry, with approximately 20,000 workers.

During the 1940s and 1950s the Lumbermen's Safety Association established and maintained a rehabilitation centre near Ottawa under the direction of Dr Barnhart, the association's superintendent at that time. I think that was prior to the Workers' Compensation Board rehabilitation centre. At that time there was heavy emphasis placed on the development and promotion of personal protective equipment and first aid training.

During the 1960s four of the staff were dedicated to supervisory training programs that were conducted on company operations throughout the province. These instructors would spend five hours a week on formal classroom training and the rest of the time reinforcing that training on the job site with individual supervisors. It included accident investigation, establishing company safety committees and instructional techniques.

Programs were expanded in the 1970s to provide education for management in total loss control and various management techniques programs. We also began training workers for the first time, primarily in the logging industry, in some basic skills such as saw chain sharpening and proper felling and skidding practices. Results from this type of training were very dramatic. Chainsaw accidents were reduced by over 50 per cent in three years and have continued to decline.

In 1980 the association established a media department to produce industry-specific training programs on videotape since there was no other source of good training material. These programs identify hazardous situations and show the corrective procedures. Member companies and their employees are involved from the basic development phase through the critique of the final program. These modular training programs are widely used by industry in both Canada and the US.

Structure: The FPAPA is governed by a board of 20 democratically elected directors and seven directors appointed by the pulp and paper companies who each serve a term of four years. According to our constitution, directors are senior managers of member companies from nine districts in Ontario and represent the three industry rate groups. A list of directors, committees and an organizational chart is appended to the brief.

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There are 23 paid staff in the FPAPA with the head office located in North Bay. Nine consultant-trainers each live and work in their geographical areas supplying training and consulting services. Two additional special trainers, based in northern Ontario, supply specialty resources where needed, plus one co-ordinator dedicated to working with volunteer safety committees.

The head office in North Bay serves as a resource centre for the industry and field staff, providing statistical data, administration, health and safety literature, a literature, film and videotape lending library, a video production studio and a training facility. All material produced by the association is available in both French and English.

Volunteerism: The management and workers in this industry have a long history of voluntary participation in the safety movement. At present there are 23 district health and safety committees and three industry-specific committees. They serve as a valuable resource to the association by

working collectively on local issues, by providing a forum for small contractors to meet and participate in training programs, organizing first-aid training and competitions and assisting in the development of new health and safety programs.

In videotape productions, local companies provide facilities, equipment, workers and very valuable technical advice. Committees also support research projects such as saw chain and chainsaw developments and a long-term project still under way on vibration-induced white finger disease conducted by the National Research Council in Ottawa.

Training programs and results: The FPAPA fully supports the section in Bill 208 for standardized and certificate training programs that are industry-specific. We recognize that training must be pertinent to meet a company's needs to improve safety performance. Consultant-trainers identify firms with a high injury frequency, conduct a health and safety audit including an analysis of accident causes on those operations, and follow up with the appropriate programming.

The staff provides training and support material for trainers from large companies and does training onsite for small companies, either individually or in composite groups. Over 3,000 workers, supervisors and safety committee members receive formal training annually. In addition to regular programming for the last three years, we have had additional responsibilities in the back power program, WHMIS training and the new mandatory cut and skid program for loggers developed in co-operation with the Ministry of Skills Development and the Ministry of Labour.

Compensable injuries for the three rate groups have declined from 3,060 in 1979 to 1,616 injuries in 1988. This is an improvement over the previous 10 years; from 1984 to 1988, a five-year period, the injury frequency rate decreased by 21.5 per cent.

Proposed changes to Bill 208 are as follows:

1. The Workplace Health and Safety Agency: We support the proposed government amendments to the bill for (a) a full-time neutral chair, (b) two full-time vice-chairs, one from business and one from labour, and (c) the four voting members representing the health and safety profession, two nominated by business and two by labour. In addition, a small business advisory committee will be created to advise the board.

It is extremely important that members of the agency have a good knowledge of health and safety matters and have been recently involved

with business from either management or the workers side. Therefore, the FPAPA recommends that the present health and safety agencies be given the opportunity to submit a candidate or list of candidates for appointment to the agency and the advisory committee.

As a small association, FPAPA concentrates its efforts on direct services to our member firms rather than on an internal administrative bureaucracy. Therefore, the FPAPA recommends that the new agency provide direct administrative support to our association in the areas of personnel and human resources, management information systems and computer services and accounting. These are the things that are currently being done through the Occupational Health and Safety Education Authority of the board.

2. Safety associations: We support the proposed government amendments to Bill 208 which propose that the associations can determine the composition of their board of directors as long as 50 per cent of the presentation is from workers employed in that sector. We would have up to two years to make that adjustment.

The board of directors of the FPAPA is presently working on a formula to include worker representatives, both union and non-union (proportional to size) on the board that would provide a fair distribution across the province and for the three rate groups. As of last Wednesday, our board of directors met in Toronto and appointed a committee to work on this particular situation and make a recommendation to our full board of directors and to our annual meeting in April of this year.

3. The right to refuse unsafe work activity: We would like to emphasize to the committee that the logging industry is considered to be a high hazard area in many situations. For example, recovering timber from a blowdown (a forest damaged by high wind) and fire-damaged forest is extremely dangerous. For the past 10 years, there has not been a single serious injury to workers involved in this work because of effective training in hazard recognition and proper work procedures. We strongly emphasize that adequate training in safe operating procedures, as well as hazard recognition, will help create a safe working environment where workers will not be faced with the question of refusal.

FPAPA recommends that the agency seek the technical counsel of the FPAPA in identifying dangerous situations and setting standards specific to the forest industry.

4. Certification: Bill 208 provides for certification of at least one employer and one employee member of the joint health and safety committee. Training would be sector-specific for employer and employee members.

For the last 25 years at least, FPAPA has conducted joint health and safety committee training. This training has had an even greater emphasis in the last 10 years. In 1988 alone, approximately 460 persons received this training.

FPAPA recommends that it be given the opportunity to participate in developing sector-specific joint health and safety committee training and to continue to deliver this training. We also recommend that FPAPA provide certification training, to be delivered in the workplace, for both employer and employee members of the committee.

Thank you very much, Mr Chairman. That is our brief. There are appendices to this outlining the board of directors, an organizational chart, some statistical graphs indicating a decline in injuries for our membership over the last number of years.

The Chair: Thank you, Mr Nugent. Just one question before we open it up. In your association, how many representatives from labour are there?

Mr Nugent: On our board of directors? At the present time, none.

The Chair: None at all?

Mr Nugent: No.

Mr Dietsch: You have no objection to changing the makeup of the association over to 50 per cent representation from labour?

Mr Nugent: No, we do not. In fact, we would welcome it.

Mr Dietsch: On page 8 you speak of your recommendation as seeking technical counsel to identify dangerous situations. How would you foresee that process being developed?

Mr Nugent: In each industry there are very, very specific hazardous situations. We hope that with our expertise and 75 years of involvement with the industry, we would be of great help in determining this type of situation.

Mr Dietsch: I understand what you are saying about the expertise, that it has been developed over a long period of time. I am also interested in capitalizing, if you will, on the expertise of the labour force out there with hands-on experience and working in the forests for a number of years as well. There certainly is a lot of expertise in that area. Is it your intention or the intention of that

recommendation to include, after the amalgamation of the association to 50 per cent of each area, to then have the participation of all concerned parties to define these things?

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Mr Nugent: As it is right now, we include workers, the people who are actually doing the work, in the development of our training programs. We have been doing this for quite a number of years. All of our consultant trainers or field staff are from the industry. They are very knowledgeable about the industry itself, and when we identify, through our statistical programs, an emerging trend or a new type of accident happening—for example, with mechanized logging there are now new injury types developing—we go directly to the industries involved with the workers, with the health and safety committees, the volunteer district committees, to get their input and perceptions in the development of programs. When our board of directors becomes 50 per cent labour representative will not have any bearing on that because it has taken place already.

Mr Dietsch: So you are already capitalizing on that expensive experience.

Mr Nugent: Absolutely.

Mr Mackenzie: Your governing board currently consists of 27 members, all of which are management. This presentation is from your association, governed by 27 management people at the moment.

Mr Nugent: Yes, that is right.

Mr Mackenzie: So, as the last few pages in your brief clearly indicate, you do not support Bill 208 as it currently stands but would support the various amendments that the minister has proposed.

Mr Nugent: I think these are improvements over the original amendments to the act, yes.

Mr Mackenzie: You are certainly asking for them. They certainly then are coming at us from a management perspective.

Mr Lacroix: We were concerned about whether we could implement those changes over a year. As you said, there are 27 members on the board right now. I do not think we want 54 members. We also represent four rate groups. We represent diverse areas of the province, which we still want to do and we want to keep the volunteers in the association. What we are supporting is a longer period of time to accomplish that.

Mr Mackenzie: A longer period of time, but with the amendments that have been suggested by the minister in the House.

Mr Lacroix: Yes.

Mr Kozyra: Mr Nugent, your figures that indicate a drop in injuries are encouraging, but I am just wondering—they are based on actual numbers—whether you factor into that the case that perhaps the number of actual workers over that 10-year period has increased or decreased to show at a ratio per 1,000 or per 100 workers. It is my understanding that in some areas, because of the introduction of sophisticated machinery, the number of workers has actually dropped and that could be a direct result then in the drop in numbers of injuries. So these figures would not be truly representative. I am wondering if you could clarify that.

Mr Nugent: Yes, sir, that is a very good question, a very valid one too, because the total number of workers in the forest industry has in fact declined somewhat over the last 10 to 20 years. In the appendices, it shows an indication of actual frequency, which is the number of accidents per million man-hours' work. This is only a five-year period, from 1984-88. It shows a decline from 67.57 to 53.1. When I became involved in this association some 23 years ago, the frequency rate for logging was around 100 injuries per million man-hours' work, so that has been almost cut in half over the last 20 years.

The Chair: Gentlemen, thank you very much for your presentation to the committee this morning. I appreciate it.

The next presentation is from the Timmins Chamber of Commerce, Deni Poulin. We welcome you to the committee this morning. We look forward to your presentation. As you know, the next 30 minutes are yours.

TIMMINS CHAMBER OF COMMERCE

Mr Poulin: The Timmins Chamber of Commerce wishes to convey its appreciation to this committee for its last-minute efforts and co-operation in allowing us to appear before you today.

The chamber represents a cross-section of business, from one-person operations to large mining concerns, all of which are committed to providing a healthy and safe work environment for their labour force. To this end, we recognize and concur with the basic principles of Bill 208. However, in assuming the role of advocate for the large number of small businesses, we hasten to highlight some areas of the bill which are causing great concern.

Structure of the workplace agency: The design of a health and safety agency, in order to reflect the true composition of workers and employers in the province, requires that the non-unionized sector be recognized. It is unacceptable that so large a sector, with so large a stake in this legislation, not be represented, as is currently proposed. A large pool of health and safety experts should be available from the existing safety associations representing non-union workers.

We have heard reaction to the minister's proposed changes to the structure of the new Workplace Health and Safety Agency, where a single neutral chairman is in place. The neutral chairman concept is well established in the work world: Ministry of Labour arbitration settlement of collective agreement questions, conciliator or arbitrator appointments to bargaining issues or strike resolutions.

We support this proposed amendment to the bill. The Timmins Chamber of Commerce, like other business organizations in Ontario, fully supports any effort that improves health and safety in the workplace, as employers who recognize our responsibility for worker health and safety as well as the protection of our customers.

As owners and employers, we are not only responsible but are held accountable for employee health and safety. If we fail in our efforts to achieve this goal, we will pay the price as imposed by the Ministry of Labour or the Workers' Compensation Board, and because we are responsible and accountable, we deserve to pay that price.

To protect the worker from injury, the Occupational Health and Safety Act in its present form gives the worker the right to refuse work he or she considers unsafe or in contravention of the act. This is an individual right to protect the worker without creating frivolous interruptions to the daily operations in the workplace.

Bill 208 would extend this right by giving certified members of the health and safety committees the right to stop work when the member believes the workplace is unsafe. Even the recent proposals by the minister to give stop-work powers to workers of bad employers is not an acceptable alternative. The problem arises when a worker, regardless of his training, is given too much authority without an equal share of accountability. We do not feel decertification is accountability.

We will show how the proposed amendment to the Occupational Health and Safety Act contains

an area of great concern to the members of the retail segment we represent and how it will result in unreasonable increased costs of operation for retailers. In all our discussions on this matter, we kept coming back to one central issue, that being the employee-employer certification and the certification process. We understand the need to expand health and safety into the retail sector and the mutual benefits for all parties as a result of reducing the frequency and severity of accidents in the workplace.

It is our recommendation to expand safety committee requirements to encompass retail businesses of five employees, as you propose. However, we foresee, based on the nature of our business, unreasonable costs that will be borne by these smaller retail operations. We understand the additional costs to be created by the proposed amendments are yet unknown and that is part of where our fears lie. Let me share with you some of these concerns.

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In the retail environment presently we are experiencing a very unstable workforce. Employee turnover is one of our major, ongoing problems, and projections for coming years indicate a continued shortfall in manpower at the retail level. All you have to do is walk through your local shopping centre to see virtually every retail outlet with its "help wanted" sign in the window.

We foresee increasing costs to the employer as a result of the certification process because of the employee turnover and the apathy often demonstrated by transient employees. Unlike the manufacturing and public sectors, retailers operate their businesses with a workforce comprising 75 per cent or greater part-time to full-time employee ratios. We are concerned over finding one of these employees willing to accept the responsibility to participate in the certification process and then, after certification, staying for a reasonable period of time on the job. We are then faced with beginning the entire process all over again and being responsible for the cost associated with the certification process.

Here are a number of scenarios that we see arising in the retail business sector that would result in an undue cost burden to the employer.

1. An employee, after several months, decides he or she no longer wishes to be involved as the certified member of the health and safety committee.

2. In an operation open 24 hours a day, who would be accountable when the certified

employee is only there eight hours of the operation?

3. The certified member is absent from work for long periods of time due to illness, holidays or other leaves of absence.

4. Finding an employee capable of fulfilling the requirements of the certification process or finding in the workplace that none of the employees wishes to accept the added responsibilities associated with the certification process.

There are additional situations that can result from the effects of employee turnover. However, it is important that this board consider the possible impact of employee turnover and apathy as part of the day-to-day operation in the retail sector and the costs associated with continually placing employees in the certification process.

The internal responsibility system as it now exists in the Occupational Health and Safety Act requires co-operation between workers and employers and a shared commitment to safety. In many businesses and industry the internal responsibility system has had a significant impact on reducing the severity and frequency of accidents. The municipal sector rate 789 has reduced its Workers' Compensation Board costs per \$100 wages from \$2.79 four years ago to \$2.11 in 1990, a reduction of close to 25 per cent.

We are concerned that authority without accountability will cause an imbalance in the shared commitment to safety and can lead to the abuse of the system—or even worse, the fear of potential abuse. Also, the original amendment to create greater work power to shut down a workplace is too easy to confuse with the ability to create pressure on the employer at negotiations time.

We appreciate there are deficiencies and we recognize that one work-related fatality in this province is one too many. We strongly support the creation of a workplace health and safety agency that will amalgamate the services offered by the safety associations and will provide research, education, training and consultative services to all industry, regardless of size or nature.

It may not be time yet to reinvent the wheel, only to improve it. With increased education, and if necessary enforcement of the present standards, we would be able to achieve the goal of reducing, if not completely eliminating the severity and frequency of accidents.

Mr Riddell: You are not the first chamber of commerce that has appeared before the committee suggesting that workers are or can be irresponsible, which I take exception to. Just as a

matter of interest, not having been a member of a chamber of commerce—I am just a farmer from Huron county. Would I be eligible to become a member of the board of the chamber of commerce, or if I were a farm worker, as a worker would I be eligible to become a member of the chamber of commerce?

Mr Poulin: The chamber of commerce has people from the community at large in its membership and there is no prerequisite to be involved in any business whatever. The answer to your question is yes, you would be eligible.

Mr Riddell: When I hear you people talk about the irresponsibility of workers or the potential for workers to abuse their rights under this bill, I just wonder if you really have workers on your board who are speaking up for themselves and saying: "Wait a minute. We are responsible." As far as accountability is concerned, if it were not for the worker, businesses would not operate. They could not operate.

In that respect, I think the workers are accountable. They know full well that if they are going to abuse their rights it may well put the business in considerable difficulty and then it will cease to operate. Where are the workers then? They are out of a job. I just cannot buy the fact that workers are not accountable. We are all in this for the same reason and that is to see that businesses thrive. We are equal partners in the business. It is up to the workers to see that the business thrives. I do not know. I guess I disagree on the fact that workers are not responsible or accountable.

There is another thing I wanted to ask, but I see I do not have a checkmark beside it so I will have to pass and maybe ask the next chamber of commerce when it makes its presentation.

Mr Mackenzie: I would like to know if most of the members of your chamber, or a good number of them, are members of the Canadian Federation of Independent Business.

Mr Poulin: I do not think I can give you an answer to that. We are not.

Mr Mackenzie: You are not yourselves?

Mr Poulin: No.

Mr Mackenzie: The second question I want to ask you is, you are aware of the background of this particular bill, I take it, the background being that there was a year or a year and a half of discussion as a result of the failure of the internal responsibility system. Most people will tell you there is difficulty with it. It is not necessarily working.

The government was not prepared to proceed with Bill 149, which was a bill a colleague of mine actually got through second reading in the House, saying it was too strong and developed Bill 208, but did not develop it on its own. It developed it after almost a year and a half of consultation between business, labour and the government. They did not reach a deal as I have said previously—I was incorrect on that—but they did reach a consensus that resulted in Bill 208, which was drafted.

The minister then took it to labour which had some reservations about it, and asked them if they would go out and sell it, which they proceeded to do even though they had some reservations about part of that bill. Then the minister in the House before Christmas—the move which referred it out to this committee—proceeded to say that there would be three amendments and two suggestions, which in most people's minds effectively gut the bill.

I am wondering what the chamber's position would be if the shoe had been on the other foot, if you had agreed to sell the bill as it was. Obviously from the presentations we are getting you were not asked to sell it, because most business now seems to have jumped ship on the issue, but had you been asked to sell the bill and agreed to it and then suddenly found the minister was going to degut the bill, what would have been the chamber's position?

Mr Poulin: I am not sure I can answer the question, Mr Mackenzie, because we do not necessarily agree on everything in the bill. You are asking me to take an issue on the other side of the coin here.

Mr Mackenzie: But you are aware that for almost a year and a half business did participate in the original discussions that drafted this bill.

Mr Poulin: I do not think I followed all of that as it went along. I am just here to give you our members' concerns.

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Mr Carrothers: You have spoken about the cost you feel would be borne by your members as a result of needing to have a certified worker in the workplace and the fact that you have a fairly high turnover of workers in your workplace. I am wondering if you have another alternative proposal as to how we might accomplish the objective, which is to get people in the workplace who have specialized training in safety who could perhaps help, advise and inform workers and management as to what might be problem situations in the workplace.

I am thinking of workplaces such as yours where we often do not concentrate on safety. We think of the big plants and so on with the big machinery, but very often there are chemicals or situations surrounding many office and retail establishments that can be quite unsafe, and it would seem there is quite a bit we could do to improve safety. I am wondering if you have another alternative proposal as to how we might get that training in the workplace, bearing in mind your high turnover if it is a problem.

Mr Poulin: I am afraid I do not have an alternative proposal for you because most of the people who work on these committees are self-employed and necessarily have to spend a lot of time with their own workforce. We are not organized to the point that we have been able to study this bill to that depth. I wish I had an answer for you.

Mr Wiseman: I would like to thank you for coming because I am quite closely connected with retail and have had a lot of individuals approach me with the very concerns you have raised here this morning. We hear a lot from labour. In order for this bill to work in whatever form it takes at the end, we have to hear from management and labour. We hear the odd boo for what you have to say. You have concerns in that area. I think it is up to all of us to try to work out those concerns, as we do with the concerns labour expresses to us. I thank you for coming out. As I said before, what you have said are concerns that have been raised to me individually by retail and other service industries in my area that I have the privilege of representing.

Mr Poulin: Thank you, Mr Wiseman.

Mr McGuinty: Mr Poulin, we have all been very impressed by the presentations from mill workers, miners, forest workers and so forth and I really appreciate the hazards in those industries. I am curious. What type of hazard exists? The only selling I have ever done is door to door during elections. I have no retail experience. Could you give me an example of the kind of hazards workers in the retail workforce encounter, because I do not know?

Mr Poulin: If you want to take as an example—I am not sure if this is the best one—a Pinto store operation where there may be two or three employees—

Mr McGuinty: Is that a horse dealer?

Interjection: Corner store.

Mr McGuinty: Oh, a corner store.

Interjection: Talk about lifting.

Mr Poulin: Yes, I will.

The Chair: Order, please.

Mr Poulin: They are employed on a per-shift basis and often work around the clock. There are three shifts working 24 hours a day. The only one that comes to mind would be the dangers involved in lifting a load that is too heavy where you would potentially have a back injury. But you are not dealing with any chemicals of any kind other than cleaning solutions, to the best of my knowledge. Of course, delivery vehicles have to be unloaded.

Interjection: Butchers.

Mr McGuinty: Butchers—a good example.

Mr Poulin: Butchers would have heavier loads. Very potentially; sure. What is another example?

Mr Mackenzie: Grocery checkout clerks.

Mr McGuinty: I appreciate those examples because I honestly did not know. I appreciate your examples, Mr Poulin.

The Chair: Mr Poulin, on behalf of the committee, thank you for your presentation.

Mr Poulin: Thank you for having us here.

The Chair: The last presentation of the morning is from the United Steelworkers of America. Gentlemen, we welcome you to the committee. If you would introduce yourselves, the next 30 minutes are yours.

UNITED STEELWORKERS OF AMERICA, TIMMINS-KIRKLAND LAKE AREA

Mr Loranger: My name is Jerry Loranger, I am the staff representative for the Steelworkers in the Timmins office. To my left I have Claude Garneau, who is the health and safety chairman of Local 4584 out of Kirkland Lake, and to my extreme left is Steve Yee, who is the president of Local 4584.

I would like to begin by expressing some concerns regarding the holding of the hearings. I would have thought it would have been imperative for the committee to consider holding such hearings in the Kirkland Lake area due to the fact there are a number of trade unions there that would have wanted to make presentations and are unable to, due to the fact that the hearings are only held in Timmins.

We are not of the opinion that we should consider costs when we are talking about health and safety of workers and the brief we are going to present is going to illustrate that. I would like to circulate some photographs, if I may, to the members of the committee so that they can

review them during the presentation. They illustrate a typical washroom facility—we refer to them as dirt room facilities—in a typical underground mine in the Kirkland Lake-Timmins area. There are a couple of pictures. One is a table similar to a picnic table with a telephone. Just for clarification, that is symbolic of what a supervisor eats his lunch at. There is another picture that has a designated smoking area sign. That is a typical lunch area for the worker. I would like to circulate them so that members of the committee can review them.

I will turn it over to Mr Garneau, who will present the Steelworkers' brief.

Mr Garneau: In his document introducing Bill 208, the previous Minister of Labour, Gregory Sorbara, states that in 1987 there were over 300 work-related fatalities in Ontario alone and that more than seven million workdays were lost on account of industrial accidents. These figures are Workers' Compensation Board accepted occupational deaths and injuries. If we take into account the days lost to illnesses and deaths that are work-related, but not solely diagnosed as such, the figure would be much higher.

In the area we represent we have had some 30 mining fatalities in the past 10 years, 30 lives lost needlessly, almost all as a result of inadequate training or legislated protection.

According to the study Occupational Diseases and the Workers' Compensation Board in Ontario by Dr Annalee Yassi, the toll taken by occupational diseases is as high as 6,000 deaths annually in Ontario. As a point of interest we would like to mention that for the years 1982 to 1987, there was a total of 313 diagnosed cases of AIDS in Ontario and that there were 255 deaths attributed to AIDS during this five-year period. We mention this to point out the magnitude of the slaughter that the workforce of this province has come to deal with on a daily basis.

It is evident that we are facing a problem of epidemic proportions, yet very little is being done to remedy this. The employers of this province say they are concerned. However, whenever a change is demanded by workers we see foot-dragging and obstruction with the employers claiming that the changes are unnecessary, or that there is not sufficient proof of the existence of a problem or that the proposed changes are prohibitively expensive. How much is a human life worth?

In every instance we see that the fears and concerns of the workforce are justified and that the remedies suggested by labour are reasonable,

and that when implemented they are effective in reducing accidents and/or illnesses. A good case in point is these very hearings. The legislation has been on the books for over a year now, with the backing of the labour movement. It is largely due to the employers' lobby that Bill 208 is not already in effect, a bill that would have done much to ensure worker safety.

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In the mining industry inquests are mandatory by law whenever a fatality occurs. At many of these inquests training is found to be lacking: appendix 1, the Len Kazur inquest of 1987; appendix 2, in the case of the Dome mine triple fatality of 20 February 1989, the jury's recommendations reveal that training was lacking. These are but a few examples of the consequences of inadequate training.

It is true that there are employers who tend to run ahead of the pack as far as occupational health and safety are concerned, but in almost every instance this is a result of an unrelenting battle waged by our union in order to get these improvements.

At present the entire foundation of the health and safety system in Ontario hinges around the internal responsibility system. This system is not working. It does, however, serve a purpose and that is insurance for the employers that they will not be prosecuted under the act. As a rule, whenever a complaint is lodged with the Ministry of Labour concerning a violation, a ministry recommendation that the problem be resolved internally will be issued, instead of the inspectors issuing orders for prosecutions on behalf of the ministry. The internal responsibility system could be made to work if it were used properly by all involved, namely, management.

As a result of reading the original proposal for Bill 208, I see many positive changes. If the bill were introduced in its entirety as presented on 24 January 1989, the bill, while not as far-reaching as we would like to see in addressing the problems we face, would be a major improvement.

The creation of a new joint Workplace Health and Safety Agency would be a major step forward since it would finally give us a voice in the directions taken in the workplace for our own survival. We do not, however, agree with government participation, either directly or in the form of a neutral chair. We feel that two vice-chairs representing both labour and management would be reasonable. After all, the provincial government is one of the major

employers, if not the single largest employer in the province.

Any time another party or group, such as small business, is granted representation in the agency an equal number from labour must be included in order for the balance to be maintained, although, by rights, labour should be granted a majority voice on the board since we are the ones dying in order to earn a living.

We believe that the vast majority of the problems the workers face in this province could be greatly alleviated if provisions were made to improve and make mandatory worker education.

We strongly support the formation of a Workplace Health and Safety Agency and we will look to this agency to ensure that workers receive the necessary training to enable them to protect themselves and their fellow workers on the job. We would like to point out that over the years our union has spent millions of dollars and an untold amount of man-hours in delivering health and safety programs to our members. We feel that it is high time the government assist us in this endeavour. A good example of training programs that we have negotiated recently are WHMIS, instructor training, and in other mines in Ontario, level 1 occupational health and safety training and so on.

Good models for this agency to follow are the joint health and safety committees and the Mining Legislative Review Committee, which is a committee appointed by the Minister of Labour. These committees function well in a bipartite fashion. Why then introduce a third-party chairperson?

Two other major improvements are the amendments that would allow a certified member to investigate on the complaint of a worker if he believes that the conditions are unsafe or that a stop-work order is required, and the amendment guaranteeing no loss of earnings for the worker and committee member in the event of a work refusal and/or investigation. The right to investigate should be made a requirement to investigate and should include all complaints by workers.

Certification of selected members of health and safety committees in order to empower them to order work stoppages is a positive move and the legislation in its final form must in no way be eroded in this respect. However, this training and power should be granted to all committee members. In the proposed legislation there is a mechanism to ensure that this power is not abused, and by granting this right to all health and safety committee members the benefits

brought on by this part of Bill 208 would extend to more workers.

Using Local 4584 as an example, by extending certification training and the power of hazardous work stoppages to all committee members, a total of six people, three of whom are union representatives, would be on the property monitoring, during their workday, a workplace that covers several square miles on surface and a total of over 50 miles of underground tunnels.

There is a lot of concern expressed by employers about labour being granted the right to stop work which is unsafe. They say that such a power would be abused. Has the right to refuse been abused? No. In fact it has not been used often enough, since the majority of workers lack the training required to fully understand their rights under the Occupational Health and Safety Act.

We would like to point out that presently any employer in Ontario can shut down a workplace for any reason whatsoever, for any length of time, without having to justify his actions. On the other hand, they state that it is unreasonable for workers to demand the right to stop unsafe work. We do not want, nor do we intend to use, such a power for frivolous reasons. We want it in order to ensure that we will come home from work alive and in one piece at the end of a shift.

The changes allowing inspectors greater latitude in interpreting the act by ordering testing as well as a greater inspection frequency than prescribed under the act, if he feels it necessary, are also changes for the better.

Employers under this act would be required to consult with committees before conducting tests. The word "consult" is too ambiguous and should instead ensure the agreement of committees. In far too many cases where consultation is required, the results have not been very favourable, and in reality, the consultation amounts to committees being informed of some policy change having been decided on by management, with little or no possibility of input by the workers. We have seen problems regarding the workplace hazardous materials information system, in which there must be consultation regarding the training workers receive.

In the gold mining industry, the most insidious killers we face are cancers and lung disease. The vast majority of miners in this province accept these diseases as a way of life or death. Whenever we hear of a fellow worker having silicosis, we are relieved to hear that it is only silicosis that was diagnosed and not lung cancer.

We accept deafness, thinking that it cannot be avoided. Hearing loss, with the knowledge and technology available in the 1990s, should be unacceptable. We accept white-hand as a by-product of working. If every man and woman working in an Ontario mine was required to undergo the equivalent of health and safety level-1 training as delivered by the union movement, you would see a marked reduction of these diseases in the future.

Another benefit of worker education would be that the workers, being aware of the problems and dangers facing them, as well as the solutions to these problems, would put the workforce in a position to avoid the creation of these hazards, as well as be able to make and/or recommend the necessary changes to ensure their own safety.

We agree with the removal of mandatory medical testing for designated substances. However, we feel that the importance and value of these tests should be emphasized to workers through education programs.

The new legislation would prohibit an employer from attempting to gain access to an employee's medical records, save by court order. This we wholeheartedly agree with, as well as with the provision that the employer pay for time and expenses spent in participating in a surveillance program. After all, if a worker undergoes testing or monitoring due to some hazard present in his or her workplace, why should the rest of the taxpayers in this province, through OHIP, pay for this testing?

The minister puts forth incentives and disincentives to employers in order to promote a safer work environment. We feel that these provisions should include greater employer liability where an employee is injured due to a condition or practice which has been identified by a health and safety committee, if a recommendation has been made by the committee and not been acted on.

The fact that employers will be required to reply in writing to recommendations, as well as provide a timetable for implementation of these changes or commit his objections on paper, will do much to reduce the stalling that our committees routinely encounter when recommendations are submitted. The period of 30 days for a written reply is too long. In almost every instance where a time period is specified by legislation, such as WHMIS collective agreement grievance procedures, we find employers asking for extensions or going past deadlines. If the time period were shortened to seven days, we would probably be lucky to see employers complying within 30 days.

We also feel that whenever a critical injury or occupational illness occurs, the investigation report by the health and safety committee, not only the employer's report, should be required to be sent to a director. It is only recently that our committees at Macassa mine in Kirkland Lake have been allowed to participate in the investigation process as outlined in subsection 25(1), even though this requirement has been in effect for over 10 years. We therefore feel that it comes as no surprise that Macassa mine has one of the highest accident frequencies in the gold mining industry. Furthermore, there is no requirement that a copy of the committee's report be sent to a director; only the employer's report need be sent. These reports are often quite different in their conclusions as to the causes and actions responsible for the accident.

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The time has also come to impose responsibility on the officers of a corporation. The decision to have and operate a safe and healthy workplace ultimately comes from the boardroom.

Overall, we feel that the original legislation put forth by Mr Sorbara could be the single greatest contribution by this provincial government to the workers of Ontario. While it is not perfect, by any means, the vast majority of it is positive and would do a great deal to ensure that we can earn a living and stay alive and healthy in the process.

As the minister stated in his paper on Bill 208, this is the first and only major overhaul of the Occupational Health and Safety Act since its proclamation over 10 years ago. "Don't we think it's about time? We have had enough deaths and injuries in the workplace. Our motto has always been, in labour, 'An injury to one is an injury to all.'"

If the changes sought by the Minister of Labour (Mr Phillips) are implemented, much of the hope and promise held out by Bill 208 will be removed and Ontario will not see itself in the forefront of occupational health and safety.

We have been waiting long enough for laws that would ensure a safe and healthy environment for workers. Our union, the Steelworkers, has taken these issues to the bargaining table for years. But let me ask you, should we be forced into negotiating for our very lives? Must we go on strike for a guarantee that we will come home to our loved ones after a day's work? What will happen to all the unorganized workers in this province? If you do not look out for them, if you do not represent them, who will? After all, you were elected to represent your constituents.

In closing, let me state that any amendments that would weaken the bill, any measure that would remove some of the protection offered to us in Bill 208 is, in effect, a death sentence for more Ontario workers, and that is the bottom line. Let me leave you with this quote by Clarence Darrow: "The employer puts his money into business and the worker his life. The one has as much right as the other to regulate that business."

Mr Dietsch: I want to know, in relationship to safety training that your local does, how much safety training do you, in your own local, do?

Mr Yee: We spent approximately \$15,000 last year on health and safety.

Mr Dietsch: I have no idea as to how many people that would train. How many people would that train?

Mr Yee: Probably about six people.

Mr Dietsch: About six people. Do you do this during working hours? Do you run training courses after working hours?

Mr Yee: We have scheduled most of ours after hours, and in some cases, during working hours for health and safety.

Mr Dietsch: Are they just for local reps or are they for the balance of the workforce on the floor?

Mr Yee: They are for both, the workers and for the people who are standing on the committee.

Mr Dietsch: Out of training six people, would all six of those be local reps, or would there be four of them or two of them? Can you give me some idea?

Mr Yee: It would probably be all six.

Mr Dietsch: Would be local reps?

Mr Yee: Yes.

Mr Dietsch: I am not sure how long you have been involved with the local, so I do not know whether it is a fair question to you, but do you train people each year?

Mr Yee: We try ongoing every year, yes.

Mr Mackenzie: Are you training management people now as part of your program, as the Ontario Federation of Labour program is in much of the province?

Mr Garneau: We invited them but they did not come.

Mr Mackenzie: There are almost 300 of them currently being trained through the OFL programs in Ontario.

My key question to you, I guess, is, this bill was presented by a previous minister and sold to the workers. Indeed, many of you were involved in lobbying members of the Legislature, a good number of whom made it clear in the lobby—I think they are all recorded—that they would support Sorbara's bill. Do you see the changes that have been suggested by the new minister as a betrayal of that deal or recommendation or whatever you want to call it?

Mr Garneau: Yes, it is a betrayal.

Mr Mackenzie: It is not a betrayal as yet; it is a suggestion made.

Mr Garneau: No, it is a proposed betrayal.

Mr Mackenzie: The betrayal will depend on how the members of this committee vote, and I would hope that you watch very carefully how all of the individual members of this committee vote, because we are going to have to make the recommendation back to the House, and that will decide whether or not the minister's amendments go forward.

Mr Riddell: We have had numerous presentations, particularly by labour groups, stating that a tripartite agency would not work, namely because both the labour and management appointees on the agency would say: "Well, what's the sense in having serious discussions? There is going to be a third party who makes the decision anyway," and they would kind of back away from the responsibility.

Do you see that happening? Are you aware of where labour and management could not get together and come up with some kind of a proposal that was satisfactory to both in connection with matters pertaining to safety, and did it take a third party to resolve whatever differences there were?

Mr Loranger: Sometimes that happens in a negotiating process where we ask for assistance of a third party, but in our experience in the field of health and safety, the minister has appointed himself some bipartite committees, and I refer to the Mining Legislative Review Committee. It functions admirably on its own without a chairman. We do not think that this agency would really require a third party to interfere in that process. It works excellently in the Mining Legislative Review Committee.

Part of their recommendations, by the way, recently was that the concept of the worker health and safety representative be enacted. So we feel that the chairperson is not a necessary part of the agency. It is not required. We strongly believe that other bipartite committees work very well,

and with this one there is no reason to really believe that a chairperson is necessary.

Mr Riddell: The example used by the previous presenter, the chamber of commerce, said that you people are so used to having an arbitrator or a mediator or some third party get involved in negotiation breakdown. I guess I am putting words in their mouths now, but I guess what they are saying is, why would you object to a third party involved in this agency? You are used to arbitrators, mediators and all those great third-party people who resolve differences. Why would you object to, say, a neutral chairman on this agency, a third party?

Mr Loranger: Maybe the union he belongs to makes a lot of use of arbitrators and mediators and so on. In our union, our success rate is quite good in negotiations and in the grievance process to deal with problems and outstanding issues without the assistance of a third party. We are proud of that. Unfortunately, those types of things are not publicized to the extent that the use of arbitrators or mediators is.

Usually, in a lot of cases when a mediator is involved, that means that there is a definite problem between the two parties, and most of the times it ends up in a strike situation, which even a third party cannot help. In those types of situations, a chairman would not help us, as far as we are concerned.

Mr Dietsch: I am curious to know. The proposal that was put forward as a suggestion by the minister indicated that the neutral chair would be selected by both components of the agency, the workers and the employers, and that he would be responsible to the agency as well. I am a bit unsure of how you perceive that as changing the ability of that agency to develop the criteria for certification and to develop an ongoing training process and to have the safety associations report them. How is that going to interfere with that?

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Mr Loranger: If I understand your question correctly, I cannot see for the life of me how either side, labour or management, can be assured that the chosen chairperson will be neutral. That chairperson has to be accountable to someone, and once a person is accountable to government, labour or management, that person is no longer neutral.

Mr Dietsch: You do that often now in the selection of the chairperson for an arbitration case. The two parties agree on the chairman. It does not necessarily mean that a chairman has a

bias one way or the other and does not have the ability to look at things in a balanced light.

Mr Loranger: It is required by law. The choosing of an arbitrator or a mediator is outlined in the Labour Relations Act. You know that if parties cannot agree, then the election is made there.

Mr Dietsch: That is right. That is the whole thing. They have an opportunity to agree among themselves, and many of the times they do agree, and then if they cannot come to an agreement, there is a case where the Ministry of Labour imposes a chairman. But I said to you that in relationship to the chairman being agreed to by and being responsible to both parties, it does not change that.

Mr Loranger: I cannot see how you can divide a person that way, being responsible for both labour and management.

Mr Dietsch: Are you saying that you, yourself, could not chair a committee and weigh the facts on a particular committee without looking at the balanced perspective fairly? Is that

what you are saying? You could not do it yourself?

Mr Loranger: I probably could not do it. No. I have got my loyalties.

Mr Kozyra: I come from a background of education, having spent 24 years in the classroom teaching, and I am fully aware of the benefits that any kind of education, as it is enhanced, prepares the person who has received that for all the things that may come in life. So I wholeheartedly support your call for increased education, whether it is for the safety personnel or all the employees, in that increased awareness of the hazards and increased awareness of the preventive aspects of these things will certainly be of benefit. I firmly believe that anything we do to prevent is money really well spent, as opposed to, after the fact, taking care of the injured. In that sense, I support you wholeheartedly.

The Chair: Gentlemen, thank you very much for your presentation.

The committee recessed at 1143.

AFTERNOON SITTING

The committee resumed at 1329 in Ballroom C of the Senator Hotel in Timmins.

The Chair: The standing committee on resources development will come to order as we continue our consideration of Bill 208. The first presentation of the afternoon is from the Ontario Lumber Manufacturers' Association and I am sure I saw Mr Ryan here. Where did he go? Yes.

Mr Ryan, we welcome you to the committee this afternoon and we have allocated 30 minutes to each presentation so the next 30 minutes are yours.

ONTARIO LUMBER MANUFACTURERS' ASSOCIATION

Mr Ryan: Thank you. The Ontario Lumber Manufacturers' Association is an association of 45 lumber manufacturing companies in Ontario which produce some 1.2 billion board feet of lumber annually.

In addition to the lumber manufacturers, some 135 companies are associate members. These include equipment and machinery suppliers, lumber wholesalers and brokers, transportation firms and financial services companies.

The principal function of the OLMA is to ensure quality control of the lumber manufactured by its members. It also represents its members' interests before government-appointed committees and boards. Through a number of standing committees, the OLMA is active in ensuring that the views and concerns of its members are conveyed to the appropriate levels of government.

These are the concerns and recommendations of the member firms of the OLMA on the proposed Bill 208, amendments to the Occupational Health and Safety Act and amendments that the government is considering to this bill.

First, we would like to go to the topic of the right of a certified worker representative to stop work. Under the original proposal of Bill 208, a certified worker may direct the employer to stop work or a machine if he finds that it is in contravention of the act or poses a hazard to the worker. One of the proposed amendments is that, where the health and safety record has demonstrated commitment, it will be the joint decision of the worker/supervisor to stop work.

One of our concerns is that it is very difficult to differentiate between an acceptable and a poor performance. Another concern is that there is an incentive for the union to classify and maintain

the firm as a poor performer. This type of structure would create conflict.

Another concern is how is it possible to train the certified worker to identify all unsafe hazards? Even after many years of training, an Occupational Health and Safety Act inspector sometimes finds it difficult to assess whether a stop-work order is necessary. The certified worker is a fellow employee and, in many cases, a member of the same union as the worker who made the complaint. How does he resist the pressure of finding for the worker, especially in cases where he is not familiar with that particular operation?

In light of these concerns, the OLMA recommends that the right to stop work be deleted from the bill. We also recommend that the bill take provisions to improve training and education in order to protect workers and we feel that we should maintain the present provisions to stop work—there is a little bit of a typographical error—it is to refuse work which we find has been effective to date.

Would you like me to proceed through the whole presentation and have questions after?

The Chair: Yes.

Mr Ryan: The next topic is on the right of an individual worker to refuse work activity. Under Bill 208, a worker would have the right to refuse work activity in situations where he has reason to believe that the activity he is about to engage in is likely to endanger himself or someone else. Proposed amendments are to clarify that this right is directed at avoiding current or immediate danger.

Our concerns are: What constitutes a dangerous work activity? What is the size or weight of an object that is too heavy to lift, for example?

Recommendations are: (a) establish standards for each industry, and these standards would be on what type of work could be refused; (b) clarify the meaning of safe work activity, and (c) maintain the present provisions for work refusal which we find to be effective.

On the topic of the Workplace Health and Safety Agency, Bill 208 is proposing that two full-time directors—management and labour—co-chair the new agency and that 12 part-time directors—six from management and six from labour—be appointed by the Lieutenant Governor, to include also a nonvoting executive director.

Proposed amendments are: a full-time, neutral chair selected by the parties; two full-time vice-chairs, management and labour, and four voting members, two from management and two from labour; but also include a small business advisory.

Our concern is that the nonunion workforce, which is 63.8 per cent of the non-agricultural workers, is not represented on the board that is being proposed.

Recommendations are: (a) representatives from health and safety committees from non-unionized workplaces could be appointed to accurately represent the makeup of the present workforce, and (b) the agency be professional in approach and not political.

On the topic of safety associations, Bill 208 suggests that the compensation may be altered, rules and organizations changed and equal representation from management and workers would be required within one year. The proposed amendment is that this equal representation would come about within two years.

Our concerns are that this type of work composition could lead to labour-management conflict and there would be a serious loss of the volunteer component, which the safety associations now enjoy. Our recommendation is that appropriate representation be recommended and not mandated.

A medical surveillance program is being considered by Bill 208 that would establish a program for the benefit of workers and costs to be borne by employers. Proposed amendments, we understand, are none. The concerns are that the program be mandatory for employer yet voluntary for workers. We recommend that if such a program is going to be effective, it has to be mandatory for the workers.

Those are our presentations. I will attempt to answer any queries or questions you may have.

The Chair: Thank you, Mr Ryan. I had one. On page 3 of your brief, you say representatives from health and safety committees should come from nonunionized workplaces to accurately represent makeup of workforce. I do not know how you pick those people. Have you given any thought, if you were to get your wish, as to how it would be made up; how you would pick those people from all of the nonunionized people in the province?

Mr Ryan: It is possibly not well stated here, but the proposal is that the nonunionized representatives that would be used to make up membership on the board of the Workplace Health and Safety Agency could be picked from

existing health and safety committees in non-unionized workplaces.

The Chair: My problem is that they have no organization, other than the health and safety committee in that particular workplace. There would be thousands of those all across the province. As far as I know, they do not have an umbrella organization. So how would you pick those people? The way it is now, from the organized sector, they can pick the people themselves because they have an organization. That is where I think you would run into trouble. I have not seen a formula for finding those people. That is all.

Mr Ryan: I would assume that many formulas could be developed. The Ministry of Labour has the addresses and names of all these health and safety committees and I am sure that by contacting them, those people that are on those committees would have some ideas on how we could go about picking appropriate members.

Mr Mackenzie: I take it from your brief that you do not believe that the current right to refuse has been abused.

Mr Ryan: No.

Mr Mackenzie: Why then do you feel it is more likely to be abused with what should amount to a much better trained worker, health and safety rep who has gone through the certification procedure?

Mr Ryan: As you say, "what should amount to a much better trained rep." there are a lot of unknowns right now. We do not know to what extent these people are going to be trained.

Mr Mackenzie: You would have a joint say in the training programs under the bipartite approach. Certainly you have had a lot of influence in it.

Mr Ryan: Yes. But the present system is that an individual worker can refuse work if he feels it is not safe. That is an individual, personal decision. It goes right away to a Ministry of Labour inspector, who comes in and determines whether it is safe or not safe, rather than going through all the possibly political, other motives. It involves one individual worker.

1340

Mr Mackenzie: But that did not happen with the current right to refuse, as much as it exists, in spite of widespread arguments before the bill went into place back in 1978-79 that this is exactly what would happen. Yet it has not happened.

Mr Ryan: No, it did not happen because I do not believe the system is set up the same way. I

think, with the new proposed system under Bill 208, the potential for abuse will be greater than the existing system.

Mr Mackenzie: When it comes to picking the nonunion representatives, I take it that you totally reject the arguments of Mr Sorbara, the former Minister of Labour, when he was selling this bill, including to his own members, when he said, on the issue of unions representing the unorganized: "After all, organized labour, the trade unions, hold beliefs that are not diametrically opposed to the interests of other workers. There is not a conflict of interest there." It is difficult to know who a rep of the unorganized workforce actually speaks for or is accountable to and, to use Mr Sorbara's quote again, "That is one of the practical difficulties of saying that the Workplace Health and Safety Agency needs to have the unrepresented workforce represented. It is a contradiction in terms." I take it you reject Mr Sorbara's argument totally.

Mr Ryan: We reject it but not totally. I do not know if I could qualify "totally."

Mr Mackenzie: I have not heard much of a qualification, but fine.

Mr Dietsch: I want to ask you about your experiences with the right to refuse as it exists now within the current act. Have you found any particular abuse with that right to refuse currently?

Mr Ryan: Speaking as an association, no.

Mr Dietsch: But as an individual? Are you employed by the association or do you have a company yourself?

Mr Ryan: No, I work for a company also.

Mr Dietsch: Do you know of any in that particular company?

Mr Ryan: No.

Mr Dietsch: In your association, is there unionized and nonunionized membership?

Mr Ryan: Yes.

Mr Dietsch: What would be the split? Would it be 50-50 or would there be less union than nonunion?

Mr Ryan: No, more union. It would not be 50-50, it would be a bit higher than 50-50. We have more unionized workers than non-unionized.

Mr Dietsch: Is your particular work site unionized or not?

Mr Ryan: Yes.

Mr Dietsch: Have you had experience on a nonunionized work site as well?

Mr Ryan: Myself, personally, previously, yes.

Mr Dietsch: I guess the question I want to ask you is in relation to the perceptions of health and safety by individuals. Do you find there is any difference in the perception of an individual worker, whether he is unionized or nonunionized, or does everyone in the workplace take health and safety seriously? I guess I am trying to zero in on your concerns with regard to the nonunionized sector not being represented, but I fail to understand, whether a person is unionized or nonunionized, how they look at health and safety any differently.

Mr Ryan: I do not think I could qualify it to say that a unionized person and a nonunionized person would look at health and safety any differently. What we are proposing here is that if 60 per cent or 70 per cent of the Ontario workforce has chosen not to be represented by unions, we do not feel they have the mandate to represent these people and it is their choice; it is the workers' choice. So the union should not be given the mandate to represent them on a health and safety agency any more than they do in the workplace.

Mr Dietsch: I guess maybe what needs to be done is defining the work that the agency is going to undertake. The agency basically is going to undertake drawing up the parameters of the certification program, the parameters of health and safety training in the workplace to be delivered by the associations. The associations will have a channel of information back up through to the agency so that they will be able to modify any of their training techniques, in particular to encompass any of the other workplaces.

They are going to have a small business advisory committee that will be looking at the aspects of small businesses in relation to discovering what problems they might encounter with health and safety and report that to the agency. The neutral chair, as you probably are aware, has been suggested by the minister. It is going to be agreed upon by the parties, 50 per cent labour, 50 per cent employers and responsible to them.

Having said all those things as to the intent of the way it is going to go, I guess I have difficulty understanding your viewpoint, your having said that nonunionized people do not look at safety any differently than unionized people, how is the fact that nonunionized people would not be, perhaps, necessarily right on the agency itself, likely to have any impact?

Mr Ryan: As an association we do not see any reason why you could not; why there is a difficulty in choosing nonunionized representatives. They do work on health and safety committees. The health and safety committees are out there. Their names and addresses are known to the Ministry of Labour and if they have chosen not to be represented by unions, they should have the same rights on the proposed health and safety agency. We do not see why there is a difficulty. It is an equal proposition.

Mr Dietsch: So Joe's Plumbing Shop, which has 25 workers and is a nonunionized shop, should have the right of say in this particular agency. Is that what you are telling me?

Mr Ryan: Not necessarily. You could have an appointment system. It does not have to be Joe's Plumbing Shop. It could be Kidd Creek division of Falconbridge with 3,000 workers. I do not know why we have the impression that all nonunionized workplaces are wee little shops with three or four people.

Mr Dietsch: No, we do not.

Mr Ryan: No? Okay. It was just an example you were using today?

Mr Dietsch: Yes.

Mr Ryan: And I was sure, with the easy communication nowadays, that we could go around to the nonunionized health and safety committees and they could go in through an appointment system.

Mr Dietsch: If we pursued that one step further, you are suggesting that the nonunionized groups would get together to appoint—

Mr Ryan: Not necessarily.

Mr Dietsch: —or submit names. Is that what you are saying?

Mr Ryan: Yes, they could submit names or they could—

Mr Dietsch: And then, once they were chosen, to whom would they be responsible?

Mr Ryan: They would be responsible back to their own workplace. They would be accountable to their own workers, the same way they are now functioning as members of health and safety committees.

Mr Dietsch: And you do not think that would cause any interference in relationship to how they interfaced with all the other—they might be working as one particular sector—they would not have any difficulty in how they would interface with all the other nonunion shops?

Mr Ryan: No.

The Chair: Thank you.

Mr Hampton: As I read your brief, I see it emphasized, I think, three times, you say: "Maintain the present provisions to stop work." "Maintain the present provisions for work refusal." "Maintain the present provisions..." Are you saying that you find the present internal responsibility system is acceptable, that it is a good system?

Mr Ryan: That is not what I said. I said the provisions to refuse work should be maintained. I think that the internal responsibility system is totally another topic. It is much broader.

Mr Hampton: I want to get at some of this. In the instance you are talking about—nonunion employers, nonunionized workforce—I want to get at the finite details. How are you going to find worker representatives or employees? How are you going to identify them for—

Mr Ryan: We propose that they would be chosen from existing health and safety committees. At the present time, sure, there exist health and safety committees in nonunionized workforces. They have people on these committees who have been appointed or who have agreed. They have put forth their names and the rest of the workforce purports that they are there as their spokesmen on health and safety committees. It would be from this group of people that you would choose these representatives.

Mr Hampton: It seems to me, then, that you are assuming that the health and safety system that we have out there now must be functioning then, if you can do this in an orderly way.

Mr Ryan: Yes.

1350

Mr Hampton: I just want to read to you some information from the Minister of Labour's (Mr Phillips) own advisory council on health and safety. It found that, in the present system, 78 per cent of our workplaces are in violation of the present act or regulations; 30 per cent to 40 per cent of the workplaces with designated substances had not carried out an assessment or implemented a control program; seven per cent of workplaces with 20 or more employees had not established a joint committee; 34 per cent of the smaller workplaces with designated substances had not established a joint committee as required by law; 30,000 offices and retail outlets are simply exempted from a right to participate; 35 per cent of joint committees had worker members selected by management; 60 per cent of the committees had a single chairperson and in 73 per cent of those cases the chairperson was from

management; 10 per cent of the committees did no inspection at all, 40 per cent of workers and 20 per cent of management had no training in health and safety.

You are saying to us, in terms of that large unorganized workforce out there, that you can use the system that is already in place. But it seems to me that the minister's own advisory committee is saying that the system that is already in place out there is not working, that it is riddled—

Mr Ryan: It is not being complied with. There is a compliance problem. Is that what you are telling me?

Mr Hampton: I think it is more than a compliance problem.

Mr Ryan: What is the point?

Mr Hampton: You are saying that we can identify workers, from that large sector of unorganized workers out there, who would be representative of employees in terms of the new Bill 208 system. Yet, again, 35 per cent of the joint committees had worker members selected by management. How is a worker going to represent workers if he is selected by management? Sixty per cent of the committees had a single chairperson and, in 73 per cent of those cases, the chairperson was from management. It seems to me that the present system does not give us a representative sample in any way.

Mr Ryan: You are reading it out to be a bunch of contraventions, and if there are contraventions of the present law I could throw it back to you. Is changing the law going to help—

Mr Hampton: No, these are not contraventions of the regulations in the sense that you have an incident in a mill or a plant.

Mr Ryan: No, these are—

Mr Hampton: These are chronic problems in terms of the present system generating representativeness or generating what I would call a valid system.

Mr Ryan: They are not contraventions of the Ontario Occupational Health and Safety Act, is that what you are saying?

Mr Hampton: No, I want to point out to you that what this generates is a chronic misrepresentation and a chronic situation where you do not have committees or, when you do have committees, workers on those committees are not appointed by workers or approved by workers, they are appointed by management, or chairpersons on those committees are not appointed jointly. In 73 per cent of the cases the chairperson

was selected by management alone. Now if that is the situation that exists, how is that going to generate for us worker representatives who validly represent workers?

Mr Ryan: It is very difficult to cope with that question. There are contraventions of the present Occupational Health and Safety Act and you are saying that that is going to impede any improvement. If there are those contraventions, I suppose it is up to the inspectors to go in there and correct them, is it not? When that is corrected you could—I do not see that that affects the representation.

The Chair: I wonder if you could just wrap up, Mr Hampton, in order to give a couple of other members a shot.

Mr Hampton: My question again is simply this. The minister's own advisory council has found that the present system that is out there does not generate the proper kind of representativeness or responsibility. You seem to be arguing that if we simply draw from that system that is already existing we are going to get proper representation and we are going to get a system that makes sense internally and will generate something that is a good system. How can that be if it is not representative to begin with?

Mr Ryan: I guess I can best answer your query, by saying that it would probably be a lot better than handing over power to a group that has been chosen to be not represented by these workers. They have chosen not to be union workers. They have chosen not to be represented by these people. Maybe there are some flaws in the present system but the answer is not to take their right of choice and give it all to the union, the membership and composition of the board. That is not going to make the situation any better than what exists.

The Chair: Okay. Thank you.

Mr Wiseman: I would just like to thank you for your brief and I look at the matter from a different angle than the colleague who just spoke. I think if we have 63.8 per cent—almost two thirds of the workforce out there, the nonagricultural one—that are not represented or would not be represented on that committee, that they should have a right. It is up to the government, or the Ministry of Labour, to make sure that there is a fair representation there. However we do that—I hope when we discuss it in clause-by-clause that we will make some amendments so that your concerns and other concerns are met at that time.

We want this bill to be as fair as we possibly can. For all the reasons that you mentioned, if the ones who are not unionized decide not to join the union, they should be represented on that board. I support that and will be trying—if I am still on the committee at the end—to work something out that is fair and equitable to all concerned.

Mr Riddell: I am having difficulty understanding the concern that management has with a certified worker representative being given the opportunity to stop work. One of the arguments they make is that, during the throes of a collective agreement, they may abuse this authority.

Right now, workers have the right to refuse work and if workers were really looking for ways of manipulating work stoppages, could they not do it with the right to refuse work as much as a certified rep may use it to stop work?

I am having difficulty with the paranoia there seems to be about management as regards a certified rep having the authority to stop work if he feels that the workplace is unsafe and that he would exercise this right during the process of bargaining for collective agreement.

Mr Ryan: I could respond to that by saying that right now we have the individual right; where a worker feels that his health and safety is in jeopardy; he has every right to refuse work. It is quite a different scenario from giving the power to one person to go and conceivably stop a whole plant, a whole manufacturing process, on his say-so alone.

We feel that it is presently effective where, if an individual believes that his health and safety are in jeopardy, he can refuse to work. It is a system we have had for a couple of years and it seems to be helping; it seems to be improving. It is quite different when you give the power to one person to stop a whole manufacturing process. It is not the same thing.

Mr Riddell: But if in some cases a worker refuses to work, would that not effectively shut the assembly line down along the way?

Mr Ryan: It could at times.

Mr Riddell: So that in effect is the same as a certified worker rep putting in a stop order to stop further work until the problem was resolved.

Pardon my ignorance, because I have not been active in a union and neither have I been active on the management side. I have always been kind of self-employed, trying to make a farm operate, with all the meagre income that you get there. I just want to better understand what the real concerns are of management. Is that a real concern?

Mr Ryan: Yes, it is a real concern. From our association, I am here representing a group of employers and I have heard very many different concerns. I cannot enumerate them all here today. But it is a strong concern of management and they feel that some of the animosity that is sometimes felt at the bargaining table could spill over into the workplace, and it is possible that you would have a certified—

[Failure of sound system]

Mr Ryan: It could close down one section, one part of the plant; it could close down one machine. But we are talking about a much different thing here, we are talking about the unilateral right to stop the whole process.

Mr Riddell: I guess the old saying comes back to me, "O ye of little faith."

The Chair: Thank you, Mr Riddell. Mr Ryan, on behalf of the committee, thank you for your presentation. You can see that you have stimulated some interest among the committee members. Thank you.

Mr Ryan: Thank you.

The Chair: The final presentation is from the Porcupine Mine Managers Association and I saw some people come in who look like mine managers. Are they ready to make their presentation?

PORCUPINE MINE MANAGERS ASSOCIATION

Mr Pappone: My name is John Pappone. I am a manager of employee relations with Kidd Creek division, Falconbridge Ltd. I am making one of several presentations.

The Chair: Okay. If you would do us a favour and hit the button on the microphone beside you. It is not supposed to be on. Yours is fine. It is on. The next 30 minutes are yours. Are you making more than one presentation?

Mr Pappone: I am making one presentation on behalf of Kidd Creek. There will be other presentations made by other representatives.

The Chair: Okay. I wonder if they could join you at the table because we have a half-hour for this presentation. May I suggest that each gentleman make his presentation and then members can keep track of who they want to ask questions of when it is finished because we on the committee have determined that each group will have 30 minutes.

Whenever you are ready, would you introduce your colleagues as well?

Mr Perry: I am Bob Perry, general manager of Dome Mine, a division of Placer Dome Inc.

Mr Pappone: Again, I am John Pappone, the manager of employee relations, Kidd Creek division, Falconbridge Ltd.

Mr Smrke: My name is John Smrke, manager of human resources for Giant Yellowknife Mines Ltd.

Mr Colquhoun: My name is Ron Colquhoun. I am with American Barrick Resources Corp. from Kirkland Lake, Ontario.

Mr Pappone: Thank you. To begin with, at Kidd Creek we are sincerely interested in any suggestion, viewpoint, recommendation or change that would improve our current safety performance. Our comments will reflect both our experience and opinion regarding the proposed amendments. I will not be touching on all the amendments. I am going to touch on three specifically.

Kidd Creek is an operating division of Falconbridge Ltd and employs 2,607 people at its base metal and gold operations in Timmins. We began our mining and mineral processing operations in 1966. Our motto at Kidd Creek is safe production. Our safety program was well in place before the inception of the Occupational Health and Safety Act. We believe that our performance is a reflection of attitudes, attitudes about employees and management, and that our success stems from mutual trust and co-operation and not necessarily from legislation. The three areas we wish to address are the proposed health and safety agency, certification of safety representatives and disciplinary fines.

The company is in favour of improving the effectiveness, service level and overall efficiency of the safety associations. However, we do question the makeup of the proposed agency's board. We do not accept the proposal that only management and union representatives be directors of the new organization. In Ontario, almost 70 per cent of the workforce is not represented by a union. Therefore, it should follow that the board makeup should have at least two thirds of labour representation coming from the unorganized workforce. However, we want to take the concept of a new board managing the proposed agency one step further. It was remarked in the Ham report: "the acceptable levels of risk at work and in lifestyle are being redefined by society. Societal members include management, labour (individually or collectively), public at large and, of course, government."

We are suggesting that if the proposed agency comes to be, then it should be managed by representatives from these four sectors. Further, if the government is concerned about how to

select nonunion labour representatives, Kidd Creek is prepared to commit an elected worker health and safety representative from our operating division to serve on the board and, if necessary, at our cost. A 50-50 split of employer and union representation on a board can only lend itself to adversarial conflict and will not adequately represent the true makeup of our workforce and our society.

In summary, we believe that the amendment to form a new safety agency can work, provided that all stakeholders are represented proportionately. An even split of management and union representatives will not be in the best interest of all concerned. Health and safety must be nonpolitical and without bias. The new agency will be creditable only if it demonstrates a high level of professionalism.

Currently the act provides for the right of a worker to refuse work if a worker has reason to believe that a situation is unsafe. Further, there is protection to the worker from intimidation or reprisal. It has been widely accepted that the internal responsibility system, commonly known as IRS, does work and it is fostered through leadership and co-operation between supervisors and workers.

Safety and health cannot be assigned to persons who have contributive responsibility. These issues must have the full attention of those who have primary or controlling impact on end results; that is, every supervisor and every worker. Joint responsibility was never intended to mean the delegation of one's responsibility to another person. Management and employees are equally responsible for their actions under the act and this joint responsibility will better impact on health and safety through encouragement of the internal responsibility system.

Certified workers will encourage the delegation of an individual's responsibility for health and safety and totally detracts from the philosophy of the internal responsibility system. Further, it lacks any semblance of accountability on the workers' part and will only create a great adversarial environment between management and workers.

The concept makes for an impossible and costly training commitment for everyone involved. We believe that no one person can fully understand the complexity of modern-day technology and be sufficiently informed to shut down a process.

This lack of understanding of the overall consequences of shutting down a process may lend itself to potential spills and environmental

upsets, not to mention production losses. There is no provision for compensation or reimbursement to the company for losses incurred because of a shutdown inappropriately ordered by a certified worker.

Our experience under the current act is that health and safety hazards are being identified and work refusals have occurred, but the identification of hazards has been by workers on the floor and by their supervisors. Work refusals have been resolved by the worker and the supervisor. We believe in the internal responsibility system and it works.

Provincial mines frequency statistics over the past 10 years show that the current system, in the mining industry in particular, does work. I have attached a copy of some statistics for you. They also include Kidd Creek's record. There is no reason to believe that a change would necessarily cause improvements.

The amendments to upgrade fines to corporations up to \$500,000 does not make sense. If indeed we believe that the internal responsibility system breeds success, how can one rationalize special attention to employer fines and no mention of employee fines or even reprimands? How does one rationalize discriminating levels of fines where joint responsibility is emphasized in the act? Escalating the employer fine level sends a message that the employer's responsibility towards health and safety is disproportionately greater than that of the worker.

Legislation must clearly demonstrate that if we have joint health and safety committees then legislation must emphasize joint responsibility to enforce a worker's obligation under law.

In summary, we believe that the amendment to form a new safety agency can work, provided that all the stakeholders are proportionately represented on the board. The concept of certified workers will be seen as an opportunity for workers to relinquish their obligations under law and to rely on a select few to protect their health and safety interests.

In a recent presentation made by Dr Shulman, director of policy and regulations branch, Ministry of Labour, in Timmins on 8 January, he spoke of creating a partnership between management and workers. This will only happen where responsibility and accountability are shared. This theme is not evident in the proposed amendment. To date we have not seen any reports that the current law does not work.

Finally, the proposed schedule of fines detracts from the concept of joint responsibility. The internal responsibility system formulated in

the Ham report and developed by the Burkett commission is, in our experience and opinion, the only direction. Health and safety cannot be legislated. It is best fostered in an environment of joint concern.

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The Chair: Thank you, Mr Pappone. Who wishes to go next?

Mr Perry: Thank you for the opportunity to make this presentation on Bill 208. We are running short of time. Therefore, I will summarize my presentation, which you have, and just talk about the major concerns I have, the first concern being the internal responsibility system.

I and my company believe that the internal responsibility system, which promotes mutual co-operation and trust among employees, the union, supervision and management, is the key to a successful and effective health and safety program.

The Ontario mining industry, by its commitment and application to principles of the internal responsibility system, has achieved an 80 per cent reduction in the lost-time injury frequency rate over the last 14 years, and this has been from 12.2 per 2,000 employee-hours in 1975 to 2.4 in 1989. This record of improvement is second to none in Ontario.

We therefore recommend that the minister should reaffirm the government's commitment to the philosophy of self-compliance and the principles underlying the internal responsibility system. The language in Bill 208 should reflect the spirit and practice of the internal responsibility system.

The second concern is about stop-work. Bill 208 extends to certified committee members the authority to direct the employer to stop work or the use of any part of a workplace or of any equipment that poses an urgent danger or hazard to an employee.

We believe that the authority for unilateral action assigned to the certified representative is not consistent with the principles of the internal responsibility system.

The concepts of direct and contributive responsibility articulated by Dr Ham and endorsed by the Burkett commission clearly defines the role and responsibility for those with direct and contributive responsibility. The certified representatives fall into the contributive responsibility category.

It is important that the operative decisions that influence conditions at work must be made by the people who have direct responsibility. This includes the worker. Shifting the safety responsi-

bility to another person would not be proper. Moreover, the two certified members, one from the union and the other from the company, who have the power to stop work or to remove a stop-work order, may be put in an awkward situation because of a possible disagreement in their judgement.

The last concern is the certification of the representative. The major concern in this area is the authority extended to the certified representative to direct the employer to stop work. This is inconsistent with the principles of the internal responsibility system. Under the proposed bill, the certified representative will have more authority than a supervisor, a person with specialized skill, a professional such as a registered safety professional or a professional engineer. Wrong judgements on the part of the certified representative could lead to serious losses. Disagreement between the professional and certified representative will lead to an adversarial environment. This issue has to be addressed.

I barely touched on three issues within this short span. The document I handed out has more details in it, which I believe should be given due consideration.

The Chair: Thank you, Mr Perry. I appreciate your awareness of the time problem.

Mr Smrke: I am John Smrke of Giant Yellowknife Mines. I will be brief as well.

Giant Yellowknife Mines, Pamorex and ERG are pleased to have been given this formal opportunity to respond to Bill 208. The effective practice of occupational health and safety in the workplace is paramount to the success of our operating companies, and it is for this reason that I would like to raise the following comments as they relate to Bill 208.

Giant Yellowknife has operated for some time now with a full-time worker representative. The operating ground rules were established through a mutual agreement which was directed by the needs of the working climate. The internal responsibility system is a foundation upon which our entire safety program is based and legislation has not been required to steer us towards constant improvements in our safety performance.

Giant Yellowknife Mines feels strongly that forced participation and mandatory guidelines can only interfere with the constant growth of trust and respect among our existing health and safety committees. Safety is an attitude and a state of mind and we can only confuse the situation by the introduction of rules, regulations and then, of course, the eventual policing of the

regulations. The working partnership that is forming between employees and supervisors can only deteriorate with the introduction of this traffic cop syndrome. Much better use of our resources would be channelling time and effort into improving the safety mindset for both employees and supervisors alike and this can only happen through commitment and hard work, not through legislation.

The constantly improving safety statistics of the mining industry are not a product of legislation. Instead, they result from a mutual interest between management and labour to work together as professionals, sharing the experiences of the past so that the methods used in mining today will offer the highest level of protection against the occurrence of accidents.

Within our company we foster a belief that the people who are the most knowledgeable about any aspect of work are generally those doing their job. It is a result of this belief that when we develop training manuals we consult and utilize the advice of those people doing the work. When we search for improvements in productivity we rely on the advice and suggestions of those doing the work. When we entertain the purchase of new equipment we consult the people doing the job and rely on them to critique the equipment when it is brought in on a trial basis. Management has a huge reliance on our employees in all of these examples and we also have a corresponding trust in their opinions.

Each of these individuals is currently in possession of ultimate authority as it relates to safety. That is our right to refuse to work when we feel that the equipment or the physical condition of the workplace is unsafe. It seems to me to be so inappropriate to even consider the introduction of further legislation when one considers that the ultimate legislation is not only in place but it is under the control of the most knowledgeable and reputable individual—the person doing the job. It is also worthy of note that not only is section 23 in the act supported by both labour and management alike, but it is utilized effectively when we require it, and with very little abuse.

The mining industry, not unlike other industries, has known both bad and good times as it relates to safety. In the past two decades, fluctuations in accident frequencies and fatality rates have also resulted in provincial inquiries into mining practices in Ontario. Each time inquiries are conducted, new information, concepts and recommendations come to the forefront and at a time such as this it is in our interest to

reflect back on some of the findings that came out of previous inquiries. Burkett suggested worker representatives who are not associated with formal union offices, so as to de-adversarialize the climate surrounding health and safety committees. McKenzie-Laskin echoed this same theme.

The long hours of work and research performed by previous royal commissions should not be disregarded. Instead, we should be taking the recommendations as advice or, at the very least, a caution to tread lightly in this area. The mutual respect that is established and grows between an individual and his supervisor can easily be interrupted by untimely and inappropriate intervention.

Giant Yellowknife is an example of a unionized mining operation in Ontario. However, as a final point I would urge the committee and legislative body to consider seriously the lack of attention devoted to nonunionized mining companies through their suggested changes in the legislation. When one considers the large number of nonunionized employees in Ontario, both in and outside the mining industry, one would have expected the intended regulations to focus on this group in a much larger way.

In summary, Giant Yellowknife Mines firmly believes the substantial gains that will be realized in the field of safety and accident prevention will come as a result of a total commitment by all parties concerned and the establishment of meaningful goals that everyone can work towards achieving. The solution is not going to be found in editing and adding to the existing legislation.

1420

Mr Colquhoun: American Barrick Resources Corp. has interests in Ontario that range from exploration of sites to operating mines. The Holt-McDermott Mine, which is located off Highway 101 east, 65 miles northeast of Kirkland Lake, Ontario, is such an operation. The gold operation was developed in the last few years from an exploration project to a viable, operating entity employing 235 employees.

We respectfully submit to the committee the following list of concerns as a company that we have with the proposed changes and the amendments, as outlined, in Bill 208. Specific areas of concern are: the internal responsibility system, IRS; the health and safety agency; work stoppage and certified representatives.

1. The internal responsibility system: The definition of the IRS introduced by the Ham report is where management leadership and

employee co-operation are encouraged to maximize safety performance. If the proposed amendments are put in place, we believe that the legislation would foster an adversarial condition that would predominate between the employer and the employee. There is no place for the adversarial environment in a company or any industry that uses the IRS, especially when dealing with worker safety. We believe that the IRS is being successfully applied in the Ontario mining industry with measurable gains and improvements of workplace safety since its inception.

2. The health and safety agency: We are pleased to see the proposed amendments to the makeup of the agency, those being the unified chair and the four additional professionals on the board of directors, but we are concerned that our sector, mining, will not receive just representation on the agency's board of directors. We are also concerned that there is a lack of provisions to allow the proper representation of the nonunionized worker in Ontario on the board of directors of the safety agency and its associations. In conclusion we, as a sector of industry in Ontario, require an identifiable representative on the board of the agency.

Work stoppage: In our opinion the work stoppage amendment, as they have proposed, could be applied improperly, provide an avenue of abuse of power and in general would be ineffective and create an adversarial environment. We believe that there is a place for worker representation in the area of workplace safety, but the bill must be amended to better define this aspect of the workplace safety and provide clear and precise guidelines to enable it to work properly.

Certified representatives: It is our opinion that the suggested amendments within Bill 208 referring to certified representatives are counterproductive to the already high levels of achievement obtained by the IRS, which is commonly used in the mining sector in Ontario. The proposed amendments provide an environment that will be costly to develop, take the responsibility away from all employees to a chosen few and develop and encourage an "us and them" scenario.

In conclusion, Mr Chairman and members of the committee, I would like to thank you for your attention to our comments. We at American Barrick Resources believe that without significant changes to the current Bill 208 there will be more confrontation and conflict in the workplace and that the achievement of improving worker

safety in the workplace will not be advanced but severely set back.

Mr Fleet: I appreciated the various presentations. One of the topics that was touched on by pretty well everybody dealt with the notion of representation by the nonunion employees in Ontario on the agency. I suppose the Kidd Creek presentation dealt with it most extensively. I would like to get a better understanding of exactly what is envisaged. The bill proposes creating an agency that would have six labour representatives. The minister has suggested he might add a couple more from the profession of health and safety, but the bottom line would be—if I understand your presentation correctly—that you would expect there be something in the order of four out of six of these labour representatives to be from nonunionized areas.

I have two questions that are closely related. My first question is, in what way is the interest of the employee who is in a nonunion situation different from the interest of an employee in a union situation in respect to health and safety. Why are the interests different?

Second, if you are proposing that these four people would be coming from nonunion shops, as magnanimous as the offer is to have somebody come from your particular company, that is obviously by itself not the way any system is going to operate. There is going to have to be some kind of a structure for selecting these individuals. How would that happen? Where would they come from? How would they represent the nonunion areas, nonunion employees?

Mr Pappone: Well, if I can address the first question, which was basically is there a difference in interest between a nonunion and a union employee with regard to health and safety, the answer to that is no. All we are saying, as a matter of experience, is that we have an operation where we have a number of employees who choose not to be union members—and rightfully so under law—and they have a tremendous amount of experience in health and safety that we think can be brought to this new agency. We also believe that, like any other opportunity in the province of Ontario, there should be equal opportunity and by denying them that opportunity you are discriminating.

The second question—it has been so long since the first one—what was it?

Mr Fleet: Since you are interested in having equal opportunity, how is it that you would select the four representatives from the nonunion sector?

Mr Pappone: That is a difficult question to answer and I can understand where the government would have difficulty in attempting to do that. However, one way you might do it is by taking a look at industry by sector, the mining industry in particular. There could be a representative out of that group of unorganized employees. That is one way of looking at it.

Mr Fleet: I am sorry to seem like I am a prosecutor here, but this is something that keeps coming up again and again and, unless the committee understands better what the presentations are, I am worried that we will not be able to give you full consideration as to what the concern is.

How exactly do you envisage the employees—and not the employer nor the labour unions—coming together on an agreement (a) about a process and (b) about a person who represents their interests?

Mr Pappone: If it was out of our own operation, we allow our employees to select them themselves. It was not my intention, nor did I say it in my presentation, that the company would appoint. I said there would be one selected from the existing group of workers and we would allow the workers to do that on their own.

Mr Fleet: Do they have a convention? How do you get all of the employees in nonunion mining operations in northern Ontario to come to an agreement?

Mr Pappone: I am specifically addressing my own operation. In our own operation what we did when it came to electing worker representatives, we allowed the employees to nominate their own in different areas and then we allowed them to vote, and they voted. That is how we got our representatives and they are representatives who are employees.

Mr Fleet: I hear you, but—

Mr Pappone: Out of 2,600, yes, and it worked very well.

Mr Fleet: I realize I am perhaps sounding somewhat argumentative, but what is the mechanism? In your own workplace I can understand how an election can take place. Now, I do not know how many thousands of nonunionized employees are in the mining sector, but there must be several thousand. How, physically, would that decision occur? Where would they meet or how would they communicate? How would different people be compared to one another? How would they report back? How does that happen? What is your—

Mr Pappone: I do not have the answer to your question and maybe we should leave it to the government to make up its mind, since it represents the people.

Mr Fleet: I thought you were proposing this, so that is why I asked.

The Chair: I think, in support of what Mr Fleet said, we are hearing this again and again and again as we travel across the province and yet we are being frustrated when we try to get at the way in which that would work. At some point this committee is going to sit down and deal with the clauses that deal with that in terms of considering amendments. That is why committee members are being quite persistent in trying to get at how people would expect it to be done.

1430

Mr Kozyra: I want to pursue the adversarial aspect. First, am I correct that a large percentage of your workers are nonunionized?

Mr Pappone: All of them.

Mr Kozyra: Okay, thank you. As I see the concern of the unions here, it is a case of power and influence, and certainly I can see why they proposed this and I can see why management would resist. Why should 67 per cent of their nonunion be represented in that way and add more leverage and clout to the union side? However, in this reference to "adversarial" do you find in your case and in others that where there is a mix of union and nonunion, they are less adversarial? Do you work it on a partnership basis and, if so, is it a cost-sharing or profit-sharing basis? What is the setup?

Mr Pappone: It has been the philosophy of our operation since the inception back in 1966 that the company was vitally interested in the health and safety of the workers. It is a policy that was written back then and has never been changed. Through that policy we continue to convey that to employees and encourage their participation to work in health and safety and because of that it is an ingrained thing that has been with the company now since 1966. It is something that you just do not introduce; it has been with us all the time.

Mr Kozyra: Your health and safety record from these figures is commendable and in some cases it is one tenth of the mine average. I am just wondering on that basis, because that word "adversarial" keeps coming up, how to separate what then becomes a benevolent employer who has a lot more influence. We are talking power and influence here. You like the situation, there are those who like the mix and want nonunion

representatives on there because in that way they see them as more friendly to their position, etc. Do you see the workers, then, in that way, since you are the benevolent employer, more in your camp or neutral as opposed to the adversarial? I am not accusatory; I am just wondering. You know, we are talking about power and influence; how does it work in your case?

Mr Pappone: Well, in that particular situation I do not think we are different from any other company. We have confrontations with employees, we have issues regarding health and safety and we deal with them. It is generally dealt with right at the front-line level. In dealing with it we are trying to resolve the situation; we are not trying to determine who is going to win out or who will have more power. It is a resolve that we want to get to, and that is basically the way we operate. We have an open-door policy, and our employees can take their issues right up to our vice-president and general manager at our local operation at any time and he is entitled to that. If he wants me to go along with him, I will go with him to present his case.

Mr Hampton: It is too bad we are almost out of time because there are a number of issues that you raise. The one thing that I find puzzling is that you seem to insist that under Bill 208 the system would somehow be less co-operative; that what aura of co-operation there is there now would somehow be lost. Why is that? If you have certified trained management people and certified trained worker representatives, why then necessarily is there going to be an adversarialness to the whole thing?

Mr Pappone: Our prime concern is that the responsibility and the obligation on the part of both worker and supervisor is not delegated to two other persons. We really believe that the success in health and safety happens on the floor. It does not happen in the boardroom, it does not happen in the main offices, it happens right on the floor. Unless you have people working together to the same common goals, you will not be successful. That is why I included the statistical remarks at the end of my presentation to show that in fact we have worked that way and that we really believe that it does work. We have no other reason to believe that it would work otherwise.

The important thing is that the moment you take away that level of responsibility right at the floor where the action is then you will lose semblance of health and safety. That is the only way that you can get it. You must have the workers and the supervisors totally involved.

The person doing the job knows that job better than anybody else in that plant. He has been trained to do it and that is why he should be there and should continue to have the rights he has under the act as they stand now. It does work; we believe it works.

Mr Hampton: I hear you laying out a defence for the current system. I am not sure I hear you saying why certified trained management people, and why certified trained employee representatives, will lead to a system that does not work.

Mr Pappone: I think someone who is going to refuse work or stop work should have a thorough knowledge of what is happening in his situation. We have an operation. We have a zinc plant and in that zinc plant there are five separate operations. We have a concentrator; in that concentrator there are four separate operations. We have a copper smelter—multiple types of operations within one building. We have a refinery—multiple types of operations in the building. We have maintenance people working in every plant out there. We have maintenance people working in shops.

We have so many different jobs in so many areas, it is inconceivable how you can select, appoint and train three, four, five or six dual parties to sit there and make these kinds of decisions. We think the decisions should be left on the floor with the workers and with the supervisors.

The Chair: This is the last foray.

Mr Hampton: I guess where I am having a problem is that what you are giving me is technical knowledge of the operation, technical knowledge of how your process works. What I understand coming out of this is knowledge about safety hazards, knowledge about healthful working conditions. Are you not talking at cross-purposes there? To understand health and safety, does somebody have to understand each and every aspect of your technical operation?

Mr Pappone: They should well understand the particular operation that they are working in from a point of view that if they are doing something, they know standard operating procedures which, by the way, incorporate a safe way of operating. It is not operating procedures and then safety. It is the standard operating procedures. The employees know that if they do those kinds of things, in fact, their health and safety will be protected.

The Chair: Mr Hampton, I wish we had more time. Gentlemen, you have obviously stimulated some interest in the committee. We do appreciate your presentation before the committee this afternoon. Thank you.

That is the final submission of the afternoon. The committee stands adjourned until 9 am tomorrow in Sudbury. We should be downstairs. The rides to the airport will be waiting for us at 2:45 pm.

The committee adjourned at 1437.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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From the Porcupine and District Labour Council:

Crockett, Bill, President

Doucette, Raymond, Business Manager, Labourers' International Union of North America, Local 491

From the Canadian Diamond Drilling Association:

Raymond, Guy, Chairman

Gagné, Gaétan, Bill 208 Committee

From the Canadian Paperworkers Union:

Seguin, Ray, President, Local 37

Woods, Jerry, Staff Representative

From the Forest Products Accident Prevention Association:

Nugent, Jim, General Manager

Lacroix, Roger, Past President

From the Timmins Chamber of Commerce:

Poulin, D., Chairman, Resources Committee

From the United Steelworkers of America, Timmins-Kirkland Lake Area:

Loranger, Jerry, Staff Representative

Garneau, Claude, Health and Safety Chairman

Yee, Steve, President, Local 4584

From the Ontario Lumber Manufacturers' Association:

Ryan, Danny, Labour Committee

From the Porcupine Mine Managers Association:

Pappone, John P., Manager, Employee Relations, Falconbridge Ltd, Kidd Creek Division

Perry, Robert J., General Manager, Placer Dome Inc, Dome Mine

Smrke, John, Manager, Human Resources, Giant Yellowknife Mines Ltd

Colquhoun, Ron, Mill Superintendent, American Barrick Resources Inc





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Legislative Assembly of Ontario

Standing Committee on Resources Development

Occupational Health and Safety Statute Law Amendment Act, 1989



Second Session, 34th Parliament

Tuesday 23 January 1990

Speaker: Honourable Hugh A. Edighoffer

Clerk of the House: Claude L. DesRosiers

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with a list of the members of the committee and other members and witnesses taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday 23 January 1990

The committee met at 0904 in the main conference room, Peter Piper Inn, Sudbury.

OCCUPATIONAL HEALTH AND SAFETY STATUTE LAW AMENDMENT ACT, 1989 (continued)

Consideration of Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

The Chair: The resources development committee will come to order as we continue our hearings of Bill 208, an Act to amend the Occupational Health and Safety Act. Today we have a full day.

An announcement I really must make is that we are required, as are other committees, to provide translation services outside the Legislature. That is a requirement; that is not a luxury, it is an actual requirement. We have been doing that. Today, however, we cannot do it because the equipment did not come to Sudbury; it went elsewhere. That is a problem for which we apologize, but in committee we cannot do much about it so we are going to proceed anyway. There are translators here who can help us out if that service is required, but it is not in the form we would like to have provided in Sudbury if anyone needed it. Normally we have the instantaneous translation and we have the equipment that people can use if they want to listen in. That is not possible today. Anyway, we will proceed without that.

We have a very full day. We will have the same rules as in other places, namely, that each presenter has 30 minutes and he can use that 30 minutes either all by himself or he can leave some time for an exchange with members of the committee. There are not many people in the room at this point, but I would ask that when people are making a presentation they be allowed to do so without interruption from people in the audience. People are here at our invitation. We regard them as our guests and we are pleased they are here, so we will not allow any kind of badgering or abuse of people making presentations. It is the job of the committee to do that, so we will not allow that to happen from the audience. Not that it has been a problem; it is to make sure everybody understands that.

The first presentation of the day is from Falconbridge Ltd, Sudbury operations. Larry Watkinson is here with Richard Laine, and I am pleased that they are here. The next 30 minutes are yours, Larry.

FALCONBRIDGE LTD, SUDBURY OPERATIONS

Mr Watkinson: We are certainly pleased to be able to meet before the committee and present our views on Bill 208 today. One of the major focuses that we ask the committee to look at is the impact of Bill 208 on the partnership between the worker in the workplace and his immediate supervisor. We think that is the most significant area of impact.

This partnership, as I have mentioned, is certainly the cornerstone of the internal responsibility system, as outlined by Dr Ham in his report some years ago, and in its simplest form—it is certainly a view that we talk about at Falconbridge—the internal responsibility system is really the resolution of problems between the person doing the job and his immediate supervisor, the problems of safety and health. We think that vets where the issue has to start. There are other parties that have contributive roles in that process, certainly safety and health committees, Ministry of Labour persons, other resources within the company, but basically they are resources that are in a contributive role to that partnership between the worker and the immediate supervisor.

What we propose to do today is first of all outline our Sudbury operations for the committee. We are going to talk further about the internal responsibility system and then we would like to present some specific comments on the bill.

In terms of what we do in Sudbury, we currently operate six mining complexes, one concentrator and one smelter. These mining complexes include the East mine at Falconbridge, the Lockerby mine 20 miles west of Sudbury, the Onaping and Craig mines, the Fraser mine and the Strathcona mine in the Onaping area, which is about 30 miles towards Timmins from Sudbury. The smelter is located at Falconbridge, and our main concentrator, our only concentrator, is in the Onaping area adjacent to the

Strathcona mine. We are currently sinking a new exploration shaft on our Lindsley property, and that is located just north of Sudbury.

0910

In terms of our workforce, we currently employ just over 2,500 persons and our production last year totalled 2.9 million tons of ore. We have two unions in our Sudbury operations: the Mine, Mill and Smelter Workers' Union, local 598, which represents just over 1,700 production and maintenance workers and we have the United Steelworkers, Local 6855, which represents 390 office, clerical and technical employees.

I want to talk briefly about our joint company-union safety and health organization. We believe jointly that this organization plays a major contributive role in our internal responsibility approach to safety and health at Falconbridge. First of all, I would like to point out that our safety and health committee structures were established at our operations as far back as 1963. In 1972 we formally included the structure of these organizations into our collective agreement with the Mine, Mill and Smelter Workers' Union. For those of you that can see the overhead, it is really a duplication of figure 1 on your chart on page 3.

We have a three-tier structure and if we look at the department of safety and health level, you will see nine committees. There is a committee in each department of our operations. Each committee consists of equal representation from the workers and from management and there is a total of at least eight persons on each committee. Some of the committees have alternate numbers in addition.

The main purpose of those committees, the main functions of the department committees is really in three or four areas. One is certainly to look within their department and develop safety and health programs within their department that are meaningful for their department. Another role of the committees is really to help in problem identification and problem-solving. It is not their major role because that role must stay with the worker and his supervisor, but the committee in each department is a resource for that worker and supervisor and is there to help in the problem identification and problem-solving.

For issues that are unresolvable at the department level, if you wish a simple way of saying it, there is another kick at the cat in the organization. There is what we call an operations level safety and health committee organization. That is composed of the chairmen from the various departments, so for problems of safety and health

that are not resolved at the department level, there is an opportunity at the next level to take a look at it and work at problem-solving.

I would like to point out too that within our office and technical unit, represented by the United Steelworkers, there is also a safety and health committee organization. Currently we have what we call area committees, one in the Onaping area and one in the Falconbridge area. The office and technical committees also have a district level committee and their functions are similar to those I have outlined for the production and maintenance group.

In terms of policy at Sudbury operations our statement of policy, which is endorsed by our safety and health committee organization, I think is a very clear statement of policy. It is the aim of the management of Sudbury operations to give first consideration to safety and health in the design and operation of the company's facilities. This is a joint statement of safety which, as you can see, is jointly signed by the Mine, Mill union and by management.

Moving on to some discussion on the internal responsibility system, and again I would like to briefly explain for the committee what the internal responsibility system means to us at Falconbridge. It is a very simple thing. It really means problem-solving issues of safety and health between the person doing the job and the person immediately supervising him, and again those people have various resources available to help in that problem-solving. This safety and health committee is certainly one of those in the forefront, but it is in a contributive role. Those with direct responsibility are the person doing the job and his immediate supervisor. Problem-solving by those parties is the way we view the internal responsibility system.

The report of the royal commission, Dr Ham's report, and subsequently the Burkett commission, which the committee is familiar with, emphasized the need for resolving issues concerning safety and health at the workplace level. Again, these commissions saw the key partners in this resolution process as the worker and his immediate supervisor. At Sudbury operations we believe that the more effective we are in having health and safety issues resolved by persons with direct responsibility, the worker and his immediate supervisor, in an atmosphere of mutual respect and trust, the better results we will obtain. As we go through out statistics, I think they will support that approach.

Our joint safety and health committees that have a contributive role in this process endorse

this concept as shown in our Sudbury district safety and health committee's statement of principle. I would like to just touch on those statements of principle briefly:

"1. The company and union believe that the greatest gains can be made in the areas of accident prevention and occupational health by encouraging the various company and union safety and health committees to work together on issues and problems which may arise in an atmosphere of mutual respect and trust.

"2. The company and union believe that awareness by employees of hazards in the workplace will result in safer job performance and improved occupational health.

"3. The company and union believe that by making the physical working environment as safe as or safer than the requirements of the law, better results will be achieved in accident prevention and occupational health.

"4. Both the company and union will work to improve attitudes towards safety and health and recognize the need for personal acceptance of responsibility concerning safety and health."

Those statements are jointly signed by the union executive and by the management at Sudbury operations.

Our accident frequencies, as I am going to illustrate, I think support a noteworthy improvement. If you move on to page 7 in the report and look at the overhead, what you are seeing is our accident results since 1970 at Sudbury operations. The dark bars represent the total accidents requiring health care including those which result in loss of time. The etched bars represent the accidents that result in loss of time. The chart shows a relatively steady downward trend in frequency.

The next chart that I would draw your attention to is a chart depicting the comparative frequencies of the mining operations in Ontario. Falconbridge Ltd., as you see, is in the number two slot. The number one slot is really an operation that is closed down. So effectively, the Sudbury operations of Falconbridge Ltd have the lowest accident frequency, as measured by all accidents requiring health care, of all the mining operations in Ontario. It is an achievement we are jointly proud of. It is an achievement that has been attained by the involvement of the workers on the job and their immediate supervisors. There has been a major contributive role in this achievement by the safety and health committees, among other resources.

Further, by way of statistics, figure 6 shows our lost-time accident frequency only, compared with the Ontario mining industry. You will see that we are marked in the number 11 position. We are below average in this area, but we are not number one. Overall our statistics certainly support an improving scenario in accident prevention.

As we look at Bill 208, the Minister of Labour has made comments that Bill 208 is basically designed to improve the internal responsibility system and we certainly support that principle. We have some specific comments to make on some of the issues of Bill 208 and I would like to move into that area now.

On page 9 of the report, we are talking about the certified member. Falconbridge accepts the need for and in fact encourages additional training for all safety and health committee members. We support training. As a matter of interest to the committee, we are currently working with the Mine, Mill group in developing a one-day workshop seminar to better improve our working relationships and better improve the internal responsibility system at Sudbury. That is coming up in March. It is a full-day seminar with all members, all the chairmen of the safety and health committees.

In terms of the certified member we do have a concern. We really cannot conceive that a certified member, given whatever level of training—we are thinking of training maybe in the 60-hour neighbourhood, but whatever level of training—can really be responsible to exercise the powers that are suggested in the bill. We have a concern about that. He cannot be expected to know or understand all of the tasks involved in every job in a complete plant, nor can he be expected to understand the ramifications of inappropriate use of these powers.

We support training, as I mentioned. We really see that the major focus of the training for certified members and for safety and health committee members, an area that needs to be attacked, is learning the skills of problem-solving, how to make a better job of problem-solving and how to be a better resource for the workers and the supervisors on the job. There are a lot of skills involved in just making sure that you are dealing with the right problem, the real problem, and then helping to resolve that. We would certainly support a focused effort in that direction. But on balance it is not reasonable to expect training to give a person skills to be able to fully recognize all the hazards in the workplace. Those skills are developed by the people in the

workplace, the person doing the job and his immediate supervisor. They are the people who are best equipped, but they do need resources to help them.

The certified member with his additional training has a contributive role to play, along with an organization's safety and health committee, the company's safety department, the sector's safety association, the Ministry of Labour inspectorate and various technical support groups within the company. The legislation, which gives direct responsibility to those in contributive roles, is confusing and may result in abdication of responsibility.

By way of suggestions for the committee, we think the legislation should be rewritten to clarify that a certified member is to play an advisory role. We see him as a support person, as a resource person. We further believe that the sector safety association, in this case the Mines Accident Prevention Association of Ontario, with the approval of the agency, should develop and deliver the instructional material.

In terms of safety associations, we believe that the Mines Accident Prevention Association has played a significant contributing role in the downward trend in accident frequencies in the mining industry. Figure 7 on page 11 of your book, or on the overhead, shows the downward trend of accidents in the mining industry.

We believe the association's contributive role has enhanced this effort. We think that what has really been important is that there has been a volunteer composition from industry of its board of directors and its various standing committees, and the association has been able to bring a more focused effort to the mines in terms of issues of safety and health.

Further, we welcome and continue to support the involvement of workers or their union representatives on the board of directors of MAPAO and its standing committees.

In terms of recommendations for the committee, we believe the association should retain its autonomy, directed through a joint management-worker-union voluntary board of directors from the Ontario mining industry.

We have a concern about testing requirements as outlined in subsection 8b(3). I do not propose to cover this in detail, but bottom line, the proposal as we see it duplicates an effort that is already being well handled and our recommendation is to delete subsection 8b(3). We think it is a duplication of effort.

In terms of medical examinations, Bill 208 suggests that certain medical requirements be

dropped for people in key jobs and we have a concern about that. The current regulations for mines and mining plants require medical examinations for hoist operators, production crane operators and mine rescue crew members. We continue to believe that regular medical examinations in these areas be mandatory, as the safe performance of their duties impacts on the safety and health of coworkers. So we have a concern about that.

In terms of work stoppage, implied with the creation of a certified member trained by the agency is the concept that this individual will be competent and have knowledge of any potential or actual danger to health or safety in the workplace. We believe this is a misconception. As I have already stated, this trained person certainly has an advisory role to play in a work stoppage situation, but we do not think it is appropriate to take that decision-making away from the person doing the job who works in the workplace and his immediate supervisor. I think that has to be the focus.

0930

We think the current legislation enables the worker to refuse work which he has reason to believe is unsafe for himself or another worker. The certified member's power to unilaterally stop work may interfere with the individual worker's direct responsibility to ensure the safety of his workplace. A certified member who is not fully aware of all conditions in the specific workplace may fail to recognize danger. As I have mentioned earlier, we support training. We support further training for certified members and we believe that training should better focus on problem identification skills and problem resolution skills in addition to specific dangers in the workplace.

Our recommendation there is that Bill 208 provisions regarding stop-work should be rescinded. The responsibility for work refusal must remain with those directly responsible for health and safety: the worker and the supervisor.

In summary then, the stated intent of Bill 208 is to strengthen the internal responsibility system. We support that thrust and we firmly believe that the people in the workplace, the worker and his supervisor, are in the best position to identify and minimize health and safety risks.

I would like to thank the committee for the opportunity for this submission and we certainly request that the committee consider our views and recommendations.

The Chair: Thank you, Mr Watkinson. We have about five minutes for an exchange with Mr

Watkinson and Mr Laine. Mr Mackenzie and Mr Fleet have indicated an interest, so perhaps you could keep the time limit in mind.

Mr Mackenzie: First off, I would like to know what the makeup is of the board or the governing authority of the Mines Accident Prevention Association of Ontario.

Mr Watkinson: The current makeup of the board is a board of directors who are chosen in a voluntary way. They are volunteers from the industry and that is how the board is made up currently. In addition there has been opportunity for some union worker membership on that board.

Mr Mackenzie: In the forest industry yesterday we found out that they had in their safety association a 27-member board, all of whom were from management. I guess that is what I am getting at. How many are management and how many are workers in your safety association?

Mr Watkinson: Currently I believe there is room for five union members on the board of directors.

Mr Mackenzie: How many management?

Mr Watkinson: I am not sure of the exact number. It is more than that. It is approximately 12, I think.

Mr Mackenzie: The second very brief question is, have you had any difficulty with the frivolous right to refuse under the current legislation?

Mr Watkinson: Certainly there has not been a major problem with frivolous use of the right to refuse work. I can think of two refusals to work, I think, which bordered on the frivolous area but it has not been a major problem.

Mr Mackenzie: One of the difficulties is that it is a recurring theme of the questions we get that somehow or other the certified worker representative would result in irresponsibility on the part of workers and yet, with the current right at least, we have not yet had a company group before this—all of them have raised this concern and yet every single one in their testimony has said it has not been a problem to date. I guess it raises some questions as to the respect for the integrity of workers in this situation.

Mr Watkinson: As far as the integrity of workers and workers' input is concerned, certainly I believe that is paramount in the workplace. Hopefully it is not a question of power and who has the rights. It is really a question of who has the best skills to identify and resolve problems of safety and health. I know in

our experience we seldom resolve issues of safety and health by voting on them. You resolve issues of safety and health by getting the people with the best skills, whatever that balance is.

We have, for example, several, call them standing committees made up of joint safety and health committee persons at Falconbridge, and these committees are not in balance. Sometimes there are more workers on the committees and sometimes there are more management people on the committees. We try to look at who are the people with the best skills to resolve the problem that has been identified.

Mr Mackenzie: There might very well be a dispute over who assesses those skills, between the workers and management in many cases.

Mr Watkinson: There often is disagreement in those areas.

The Chair: We had better move on. Mr Fleet.

Mr Fleet: In your presentation you have raised something that I think is a little different from what we have heard before from any other group, dealing with the repeal of clause 17(1)(e) which calls for medical examinations. You have indicated that you currently have medical examinations for hoist operators, production crane operators and mine rescue crew members. I would be interested to know how many people in your operations are tested—presumably this is annually—what they are tested for, what the general concern is about, and whether or not there has ever been any objections from either the union or from the employees about the testing procedure or some facet relevant to that process?

Mr Watkinson: In terms of numbers of people who are affected, first of all, the requirements for these medicals come under the regulations for mines and mining plants. That is where the authority for that currently rests. We have approximately 75 persons who are involved in our mine rescue teams and I am going to estimate that there would be approximately another 30 persons who are either crane operators or hoist operators. We have upwards of 100 persons who under the current regulations for mines and mining plants require an annual medical.

In terms of what the medical does, I am not a medical person. However, I know that it does give the persons that are doing these jobs and the persons that—if you are a hoist operator and you are responsible for taking upwards of 300 or 400 men underground and back up during the course of a shift, there is some benefit, both as an operator and as a person getting on that

conveyance, to know that there has been a recent medical review. I appreciate that medical reviews do not show up everything, but we think on balance it is something we would not want to lose.

Mr Fleet: Have there been any objections from either the union or individual employees?

Mr Watkinson: From time to time there may have been. I am not conscious of any. There certainly has not been a thrust of objection in that area.

The Chair: Thank you very much for your presentation to the committee this morning. While we are waiting for the next presentation, which is from the North Bay District Labour Council, we have an opportunity to introduce the members of the committee.

I should point out first of all that the composition of the committee is an all-party committee and is in the same proportion as members in the legislature, which in this case means six Liberals, two New Democrats and two Progressive Conservatives; that is when there is a full complement of the committee. On my far right is David Fleet from High Park-Swansea in the west end of Toronto. Next to Mr Fleet—he has stepped out for a minute—is Mike Dietsch from St Catharines-Brock and he is parliamentary assistant to the Minister of Labour (Mr Phillips). At the far right on this side is Doug Carrothers from Oakville South. Mr Carrothers is the parliamentary assistant to the Minister of Industry, Trade and Technology (Mr Kwinter), who also has an interest in this bill of course.

Right in front of me is Taras Kozyra from Port Arthur and Jack Riddell from Huron riding. Across from him is Doug Wiseman from Lanark-Renfrew. On my left is Bob Mackenzie from Hamilton East and Shelley Martel from Sudbury East. Somebody else stepped out. Dalton McGuinty down here stepped out too. He is from Ottawa South.

I will repeat something I said at the very beginning, because a lot of people were not in the room then. Everyone who comes before the committee is here at the invitation of the committee and we are pleased they are here. I would ask that they be allowed to make their presentations without interruption from the audience, whether people in the audience agree with them or not. That simply is not fair and we will not tolerate that. We are an informal group, but there are some rules that we must apply.

The next presentation is Ron MacDonald from the North Bay and District Labour Council. Mr MacDonald, welcome to the committee.

0940

NORTH BAY AND DISTRICT LABOUR COUNCIL

Mr MacDonald: Good morning. Some might wonder why I am here this morning. I am staff representative for the United Steelworkers of America and part of my responsibility is to look after the North Bay area. I would like to present this very brief, concise and to-the-point presentation from the North Bay and District Labour Council on behalf of the president, Sister Laurie Hardwick.

One worker dies in this province every working day. Why? Why is this being accepted by workers and by the government? For workers it is because they do not have enough control over their lives, and for governments it is because they choose to let it happen by letting business rule them. It is obvious.

According to a Toronto Star report of 28 September 1989, Ross Dunsmore, chairman of the Board of Trade of Metropolitan Toronto and its labour relations committee, was quoting as saying: "[with free trade] we have to compare the cost of doing business here with Buffalo and Georgia. The more impositions the government makes...the more it will cost [in Ontario] and more companies will be pushed to the United States." Then, in October 1989, Gerry Phillips, the new Minister of Labour, moved second reading of Bill 208 and indicated they intended to gut the bill at the committee stage.

The day that we allow corporation profits to rule over the lives of working people is a sad day for Ontario and the people of Ontario.

Bill 208, with a few amendments, would have been the most progressive piece of legislation this province has seen since the New Democratic Party-Liberal accord. But instead we are seeing the lobbying efforts of business to kill Bill 208 and to kill more workers. Brother Gord Wilson of the Ontario Federation of Labour was quoted as saying, "If these deaths were occurring on our highways, we would have speed limits of 40 mph and would be strapped in so tight we wouldn't be able to move." So true his statement is.

In North Bay we have had a problem with a number of accidents at the junction of Highway 11 and Highway 17. Mayor Stan Lawlor and MPP Mike Harris have been screaming blue murder for a proper overpass and yet workplace accidents occur and we do not hear a word from them.

Once we step on to company property it seems our lives do not matter any more. This has to

change. Working people in this province need to have control over their lives, control to sustain their lives. Workers are too often intimidated and forced to believe they should be thankful for their very job.

Prior to 1983, at one workplace in North Bay workers were getting fired when they complained to management about rashes on their arms from working with formaldehyde. That practice has changed, but there are still unacceptable conditions in the workplace. The levels of formaldehyde are still over the acceptable level most of the time. Workers complain about their eyes, their throats burning, and amazingly, before the ministry arrives for testing, conditions improve.

Another example from this workplace is the ventilation. Since the workplace hazardous materials information system, certain chemicals used must be ventilated. They are. The chemicals used are stored in a refrigerator that is ventilated to the outside, one pipe going in and one pipe going out of the fridge. But when these chemicals are used, they are used in an unventilated room where other workers are welding and spray painting. We must put a stop to this kind of nonsense.

Another example of a horrid working condition that affected not only workers but the general public recently occurred. After 10 years the presence of asbestos insulation was brought to the attention of a couple of workers. The ministry was called in instantly and it was discovered the work environment was insulated with 75 per cent asbestos. Orders were issued by the Ministry of Labour to remove the asbestos, giving the company almost two years to remove it. The problem is now solved, but meanwhile hundreds of workers were exposed to this designated substance, many working directly in it, not to mention the 500,000 customers who were innocently exposed to this carcinogenic substance.

The workplace carnage must stop and the only way to stop it is through legislation which gives working people the right to control their own lives. We need sense, not dollars, to rule our province. We need to see Bill 208 made stronger with the amendments suggested by the Ontario Federation of Labour. Business can complain of the high cost of health and safety and the high cost of workers' compensation, but if conditions were safe, fewer accidents would occur. Let's ask ourselves one question: What price can a company put on your life? Does that price concur with yours or your family's price? That is really

the bottom line. Their profits or our lives: The choice is yours, but it should be ours.

The reference, incidentally, to the asbestos was in regard to the Ontario Northland Transportation Commission's Northlander train which has been running between Timmins and Toronto daily since 1977, and the other one was in respect to Laidlaw Goodwin.

I might add a few comments. My expertise, I guess, if it is called that, really comes from the mining industry. I have worked and been involved in the mining industry since 1954, so I go back a long way. It astounds me when I hear comments, particularly this morning, made to this committee about all the things that should not happen. When we had to drag the bloody companies kicking and screaming into the 1970s and 1980s, when people forget about the Ham and Burkett commissions, when people forget about the amendments to the Occupational Health and Safety Act which were brought about really by workers, by organized labour, protesting loudly and long enough that something had to be done, when people stand up and talk about the good things that are happening in safety and health records, about the minimum amount of accidents that are happening compared to what they were before, I was there.

I was there in 1950 when there was no such thing as a worker being able to stand up and say, "There's an unsafe condition." I was there when it improved. It has got a hell of a lot further to go, as far as I am concerned, because I am familiar with what happens. I have seen the broken bodies. I have seen the dead bodies in the mines. There are still too many, far too many today. Our responsibility, and particularly this committee's responsibility, is to make sure that no one dies in the mines and that no one dies in any factory.

I see the difference on both sides of the story. I now represent small units. I do not represent that big unit of 6,500 that was at Inco any more, but I can see the difference. I can see that workers are afraid to say something. They are intimidated, either deliberately intimidated or the intimidation is just there. It is sitting over their heads every day like a sword. I have seen the good, the bad and the ugly. So for someone to say to me that workers should not have equal representation, that person is not interested in what is happening in his plant. He is interested in profits—and I think this hits it right on the head—more than the livelihood of workers and their families. I feel very strongly about this.

I see a situation where we have been in the forefront in the mining industry, where we have

had joint occupational safety and health committees, co-chairmen from either side. We do not have some independent person sitting there and saying: "Now let's get together, ladies and gentlemen. Let's try to resolve the issue." It is two parties working together on an equal basis. We were the first to get full-time worker representatives, or inspectors if you want to call them that, in the mines, paid and trained by companies. They have been nothing but beneficial to workers and companies. Where are the problems?

I remember when the Ham commission and the Burkett commission, because I was involved in it, said: "Oh, you can't give workers the right to decide that there is something unsafe and report it. We'll have a horror story. We can't live with it." Where are the horror stories? Where are the problems?

Someone is saying to us that workers, and particularly labour, because it is organized and can speak for workers—it is always out there in the forefront speaking for all workers—I do not see the difference between an unorganized and an organized worker. A worker is a worker. They are all the same, in the same respect that you represent everybody from your constituency. Do you divide the line between men and women and children or organized and unorganized? I do not understand that attitude.

We are concerned about people in the plants and in the workplace. They have to be protected. I think they have a right to decide what their destiny is, and they have a right to decide what their good health is. I cannot understand why someone would take that away from them. Who is best qualified to determine what is safe and unsafe? The very people who create the profits and are familiar with the workplace. All of those improvements have come about because of joint co-operation and because of some companies realizing the fact that they have to have people representing the workers on an equal basis, a partnership. They keep screaming out for a partnership, but the representation, as was mentioned a while ago, of 12 to five does not seem like any partnership to me. Those are my comments.

0950

Mr McGuinty: Thank you, Mr MacDonald. I admire the vigour with which you back up your statement. When you say that one worker dies in this province every working day, is that one worker dying from an industrial accident?

Mr MacDonald: I am not totally familiar with the statistics. I think it is, yes.

Mr McGuinty: One worker dies in this province every day from an industrial accident caused by an irresponsible employer.

Mr MacDonald: I would say it is. I am sure Brother Wilson will address that issue.

Mr McGuinty: I would like very much to verify that kind of figure.

Mr MacDonald: I suggest that you ask Brother Wilson. He has the statistics; I do not have them.

Mr McGuinty: Okay. Brother Wilson might elaborate also on the "workplace carnage" that is alluded to here.

You have referred to two specific incidents or firms, the Northland train and Laidlaw Goodwin. Could you cite other specific examples of employers that you would have in mind when you allude to the situations that you have listed here? They are very convincing and very moving, but would you have names and places and so forth?

Mr MacDonald: You are speaking about unsafe situations that have caused deaths.

Mr McGuinty: Yes.

Mr MacDonald: I have a very valid one. The sintering plant, Inco, 1948 to 1962, hundreds of cancers; many, many deaths—

Mr McGuinty: Yes, but with all due respect, Mr MacDonald, I really appreciate it, but what constructive purpose is served by looking to what was going on 20 years ago?

Mr MacDonald: The constructive purpose is that we learn from the past and if we do not learn from the past, we will never progress.

Mr McGuinty: That is right. You alluded to the previous presentation from Falconbridge. Could you give me very briefly your comment on the procedures that have been established there?

Mr MacDonald: The procedures they have established there are similar to the ones—I keep referring to Inco; I have to, because that is where I worked, and I am familiar with Falconbridge. The procedures that have been established that are beneficial are a couple of things I mentioned. First of all, there was no such thing as a joint safety and health committee. Now there are joint safety and health committees that have equal representation, co-chairpeople from each side, and full-time representatives who are trained to recognize unsafe conditions. They are trained in all the different facets of safety and health and paid for by companies, and they are worker representatives, not management representatives.

Those are all progressive things that have happened to recognize that people within the plant can best represent those people whom they work with. That has been instrumental in improving the situation. I am not saying, sir, that it cannot be better, but it has come a long way compared to what it was before.

Mr McGuinty: Do you think the workers at Falconbridge are happy with the situation as outlined by management this morning?

Mr MacDonald: I doubt very much. I cannot speak for them, but I am sure they will make some presentations and suggest to you some improvements.

Miss Martel: I want to go back to the presentation we heard this morning because I did not believe most of it, especially when they were talking about the internal responsibility system, in particular how the key partners in the resolution process are the worker and the immediate supervisor. I guess if we lived in dreamland, and I think the people this morning from Falconbridge did, we would like to hope that when a worker went to his supervisor and said, "This machine is unsafe; the gate is not shut; the gate is broken," the supervisor would respond.

Ron, you were underground for years and you were president of Local 6500. Why do you not tell the committee what happens when the supervisor is not co-operative and when people end up at Shebandowan or wherever else they end up in the dirtiest and filthiest part of the plant because the supervisor does not want to listen. How much power is there in that kind of situation for workers when they are trying to stop an unsafe practice?

Mr MacDonald: He or she does not have any power. I will give you an example which is related but not the same thing. Curiously, I was at a prenegotiation meeting last night and people were afraid to say something because the supervisor, the leader, was going to be there. That is the kind of intimidation that is there, whether you realize it or not.

It may not be a supervisor deliberately doing it. There are workers who do not have the power to say to someone: "Look, something must be done about this situation. Something must be done about these unsafe ground conditions or unsafe conditions in our factory," or something. If they do not push it or promote the situation to an inspector of the ministry or their joint committee, if they are fortunate enough to have joint committees, then nothing happens with it.

Miss Martel: Do you really think, Ron, that is where the basis of power should be, that in fact you leave everything to be worked out between the supervisor and the worker and you only have the joint health and safety committee and the certified member acting in an advisory capacity?

Mr MacDonald: Shelley, I repeat what I said before. The people who are best qualified to determine the working conditions within a respective area are the people who work there. They are the most knowledgeable about determining what is safe and unsafe in there. They are the most knowledgeable about how to change things and improve things that are beneficial for everybody concerned. That includes the companies also. The workers are best qualified.

Miss Martel: One more thing, if I can, and it concerns the certification, because the group before us tried to say that a worker could not be certified, could not understand his workplace, he could not acquire that much training. Local 6500 has worker representatives. They have been in place for a couple of years now. How difficult is it really, at the bottom line, to have people trained who are certified and can shut down unsafe practices because they recognize them?

Mr MacDonald: It was initiated first of all in Elliot Lake and they have even broader powers than that. It was so beneficial and so good for the workers in those areas that we got it in other areas and other mines and we found it creates nothing but a good situation for people. It protects them, it helps them. People will speak to worker representatives and so on. They will relate to them. They will tell them about conditions. That is what it is all about. We are supposed to be trying to prevent deaths and accidents and I think that is the key to the whole situation.

Mr Mackenzie: I have two questions. First, you have had experience now with small units, as well as the experience you had in the big local, 6500. Is it your impression that small units and unorganized units—either one, you may not be dealing with them directly—the workers in smaller, unorganized units who do not have the advantage of a large, well-organized local are likely to be more intimidated and less likely to report safety and health violations?

Mr MacDonald: Definitely, sir, and that is where thousands of our people are working there at a disadvantage; lack of knowledge, for one thing, lack of incentive to come forward and do something about a situation because of their fear, really, about keeping their jobs.

Mr Mackenzie: The second question is, yesterday we heard that one of the safety associations in the forest industry was governed by a board of 27 management. Here today, I am not sure of the figures in the mining association or accident prevention association, but we were told that it may be five workers and 12 management. Whether that is an accurate figure or not, is it your perception that workers in job sites are likely to accept the authority of a group made up, as these two groups are made up, to have authority over their training and programs that are needed for their safety?

Mr MacDonald: No, they definitely will not, because there is a lack of trust and they do not believe those people are representing them. They believe they are an arm of business or industry.

Mr Dietsch: I want to ask you, I guess it is on the second page of your brief, at the top, you say, "Once we step on to company property, it seems our lives don't matter any more." Is that a statement that you believe in?

Mr MacDonald: If you ask me my personal opinion, I did not write the brief, but I believe it does apply in certain situations that Mr Mackenzie referred to a while ago. It depends on who you are working for and where you are working. There are some people, whether it is deliberate or otherwise, who feel that is what the situation is where they work. You do your work, keep your mouth shut, do not complain and do not question about whether it is safe or unsafe.

Mr Dietsch: Can you give me the names of situations in that respect?

Mr MacDonald: I cannot in North Bay, I am sorry. If you want more information from the labour council you will have to contact it.

The Chair: Mr MacDonald, thank you very much for your presentation this morning.

The next presentation is the Ontario Federation of Labour—and the Sudbury and District Labour Council, I had better add, before I get my head kicked in.

The Chair: Gentlemen, we welcome you to the committee this morning. We look forward to your brief. The next 30 minutes are yours.

ONTARIO FEDERATION OF LABOUR AND SUDBURY AND DISTRICT LABOUR COUNCIL

Mr Wilson: Thank you, Mr Chairman. Let me take it upon myself to introduce the two individuals who are with me this morning. First is Roy Edey, who is the executive secretary of the Sudbury and District Labour Council, and on my

far left, Barry Tooley, who is the treasurer of that organization.

We intend to present a written copy, a submission, to you this morning, after which we would clearly be more than pleased to respond to any questions from members of the committee.

On behalf of the Ontario Federation of Labour and the Sudbury and District Labour Council, we wish to thank the resources development committee once more for the opportunity to address our concerns about Bill 208, an Act to amend the Occupational Health and Safety Act and Workers' Compensation Act in Ontario.

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As the president of the Ontario Federation of Labour, I was anxious to appear before you in the north to raise what we consider some of the special occupational health and safety issues faced by our brothers and sisters who live north of the French River. We have repeated before this committee the fact that, on average, one worker dies every single working day, and I would be more than happy to respond to the question that was directed to Mr MacDonald, and yet that statistic was never made so real to those of us in the OFL than our annual convention in 1987. We met at that time for three and a half days in Toronto, and during that period of time, five northern workers were killed on the job. One steelworker was crushed to death at Inco here in Sudbury and two members of the Ontario Public Service Employees Union, the pilot and the co-pilot, were killed in an air ambulance crash just outside of Chapleau, just north of this very community in which we are residing at the moment. I would ask Mr Edey to complete our brief.

Mr Edey: Northern Ontario poses a number of significant problems in occupational health and safety. The resource-based industries of mining, smelting, logging, forestry and pulp and paper make a very significant contribution to the number of workers killed and seriously injured on the job in this province.

In fact, during 1988, mines, quarries and oil wells, a classification covering mostly mining in the Ontario WCB, produced 148 of the 298 deaths reported in the WCB statistical supplement. Some 49.7 per cent of all the deaths compensated in this province came from this industry. Even if one removed the 69 deaths from lung cancer due to gold mining that had occurred before 1988, there were still 79 deaths in the resource classification during 1988, a 79.5 per cent increase over 1987. There were seven deaths in the pulp and paper industry in 1988. It was

such a phenomenal increase over the one death in 1986 and the three deaths in 1987 that the Minister of Labour convened a special committee under section 11 of the Occupational Health and Safety Act to investigate the causes.

Geographical isolation also plays a major role in occupational health and safety. Many of the resource industries are located huge distances from the Ministry of Labour offices, making inspections and investigations difficult. Immediate health care services in isolated communities cannot be the equivalent of large urban centres, which means that public sector workers are often placed at risk in transporting patients on air ambulance planes that are not properly maintained and serviced.

Brother Ian Harris, OPSEU, 27 years of age, who, with Donald Constant, another OPSEU member, 37 years of age, was killed in an air ambulance crash outside of Chapleau. He had just days before actually predicted such a crash on 17 November 1987, when he joined other OPSEU members in demanding an inquiry into the privatization of the air ambulance service from Air Ontario to Voyageur at Queen's Park. The two OPSEU members, the pilot and the co-pilot, were killed on the first Voyageur flight out of Timmins, ironically.

Occupational health services are even more sadly lacking, and company doctors characterize the delivery of occupational medicine in the north which makes the extension of our ministry-funded occupational health clinics for Ontario workers network even more crucial in the next several years.

Cancer among our miners in northern Ontario, including our miners in Elliot Lake uranium mines (156 lung cancer deaths), the gold mines (209 lung cancer deaths) and our miners right here in Sudbury make up a substantial proportion of the deaths due to occupational diseases in this province. Hearing loss, white finger, silicosis, to name only a few recognized occupational diseases, also find many victims in our northern communities.

You are bound to hear from the mining industry, especially pulp and paper and forestry, as you have from construction and manufacturing, that lost-time accidents are down over the years. But this committee, more than any, will know that serious injuries can be masked in medical aid statistics or not even appear in the compensation roles at all, when workers are encouraged to apply for sickness and accident benefits or to return on light duty rather than go through the hassle of WCB.

This resources development committee, in your report of July 1988, looked at the peculiar phenomenon of increasing fatality rates which showed no correlation to a falling lost-time injury rate in the mining industry in this province, which called into question the traditional iceberg theory of accidents. The iceberg theory of accidents holds that fatalities are merely the tip but under the surface would be, in increasing numbers, lost-time injuries, medical aids and incidents.

I wish to quote from your 1988 Report on Accidents and Fatalities in Ontario Mines, page 14. This committee concluded:

"The committee, having carefully considered this issue, believes that the mining companies, in an attempt to reduce the number of lost-time accidents (and therefore lower their WCB assessment rates), are now reporting injuries of greater severity as 'health care only' (no lost time) claims instead of 'lost-time' claims. The committee further believes that it is this shift in recording accidents which has resulted in the declining lost-time injury rate."

You expressed concern at that time, not only because this shift masks the true situation concerning serious injuries, but that such a decline "could also distort the response of industry in terms of setting priorities and establishing appropriate safety strategies," page 14. We say to you that if you look behind the statistics in most industries in Ontario, you will probably find the same phenomena in the statistics that employers have been presenting to this committee over Bill 208.

The Canadian Manufacturers' Association and the Council of Ontario Construction Associations came before this committee with examples of their improving performance in an attempt to persuade you that Bill 208 is unnecessary legislation. Using your own argument, we say to you that such a masking of serious injuries is distorting the response of industry and that Bill 208 is absolutely necessary in establishing appropriate safety and, we might add, health strategies.

This also speaks to the totally ridiculous suggestion that the legislation should somehow differentiate between good and bad employers in the provision of the right to shut down for certified worker members. If experience rating and attempts to lower assessment rates are producing this distortion, imagine the response from employers attempting to avoid giving their certified worker a right to shut down.

That speaks to yet another point that this very committee on resources development made in your 1988 Report on Accidents and Fatalities in Ontario Mines. You clearly recognized the need for CEOs of mining companies to assume responsibility for mine safety, the need for line management training and the real need for training of joint committee members and individual workers, all provided in Bill 208. You also recommended that all joint committee recommendations and management responses should be sent to the Ministry of Labour for auditing to determine whether health and safety committees are receiving adequate support from mine management, a laudable recommendation for all workplaces.

But the recommendations that we would endorse most wholeheartedly from your report appear on pages 32 and 33. This committee investigated the provision of full-time worker safety representatives as negotiated in at least three of the Steelworkers' collective agreements already placed before you and interviewed the president of a Swedish mining company about its legislated right to shut down an unsafe operation by a worker safety delegate. I quote: "According to this individual, with the exception of the odd frivolous case, Swedish safety delegates do not abuse this authority. On the whole, it is used responsibly." I maintain it would be the same thing here.

Based on these findings, you as an all-party committee recommended that there should be statutory provision for full-time worker safety representatives in each mine or mining plant, with proportionate time provisions for smaller mines. Those worker safety representatives should be selected by the workers and report to the joint committee and: "7.3 Worker safety representatives who are adequately trained in the act and the regulations should be empowered by statute to order a halt to any specific operation that they believe is unsafe and may put workers at risk." Surely that is all Bill 208 in its original form was trying to do, and surely nothing in the interim should make this all-party committee change its mind.

One issue that we find quite interesting in the employer organization briefs is their new-found sudden concern for the representation of unorganized workers. It seems when we try to organize workers, representation is not important, but now that industry may be faced with organized labour at the table, the rights of these workers to be represented become paramount.

The Canadian Manufacturers' Association's recommendation to select worker representatives on joint committees in unorganized workplaces would do little to ensure representation, since in 35 per cent of these joint committees employers have already selected those worker members in violation of the Occupational Health and Safety Act.

Of course, that fits into the recommendation of the Council of Ontario Construction Associations and the Canadian Federation of Independent Business that they should select the worker representative, but does little to ensure proper representation; nor can it ensure that these workers are accountable in any way to the unorganized workforce that they are supposed to represent. Organized labour has always and will continue to represent the interests of the working men and women in this province.

We do not intend to repeat all the concerns that were expressed in the Ontario Federation of Labour's initial brief presented on 15 January 1990, and repeated again by many of our affiliated unions and many unions not affiliated to the OFL.

The amendments that the Honourable Gerry Phillips presented to the Legislature on 12 October 1989 and again to this committee will not only gut the very principles on which we can support Bill 208, but will take us backwards from our present practice under the act.

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This committee must not let one worker dying every working day and 1,800 workers injured every working day be established as the standard for doing business in this province. Last year, 1989, 510 fatality claims were submitted to the Workers' Compensation Board in this province; 375 of those deaths had occurred in 1989. Not all of these workers will appear in the year-end totals, but all of these workers will appear in Ontario graveyards.

We are bringing our replica of a graveyard with 293 gravestones which represents the 293 workers whose death claims were accepted in 1988. Our members are not buried in one graveyard like this. We have members and there are workers in every single graveyard in this province because of workplace accidents and diseases. You, as a committee, and the Peterson government have the power to stop this slaughter in our workplaces. We need Bill 208 and we need our amendments that will enable all workers in this province to act and protect themselves.

One comment before any questions are fired at us. It was just brought to my attention that in one

of the previous briefs, particularly from Falconbridge, it was mentioned that Falconbridge has a very viable safety record. But the presenter neglected to say that they have worker reps and they were elected and bid on those jobs. So actually the enviable safety record that Falconbridge has, I would say, was due to the safety representatives.

The Chair: Thank you, Mr Edey. This is the first presentation that has dealt at some length with a previous report that this committee made on fatalities in Ontario mines. I appreciate that.

Mr Mackenzie, Mr Carrothers and Mr Dietsch.

Mr Mackenzie: First, I wanted to mention briefly that I was pleased that you referred to the resources development committee's Report on Accidents and Fatalities in Ontario Mines. We need to be reminded of the recommendations that were made. I do not know whether that committee report was unanimous or not, Mr Chairman.

The Chair: Yes, it was.

Mr Mackenzie: I think it was, all three parties. Many of the things we are fighting for now are recommendations that were made by this committee just a year or so ago in the Ontario Legislature, and it really leads me to wonder why we are seeing the opposition we are seeing today.

I have two specific questions that I would like to direct to Mr Wilson, if I may. You referred briefly to it. A constant refrain from various business groups in this province has been the professed concern over the representation of unorganized workers in the province of Ontario. I am wondering if you could respond to that.

A second question and another professed concern is the bipartite approach and the request for a third party as a neutral chairman, which also seems to be a constant refrain of management groups before this committee.

Mr Wilson: First of all, I said in Toronto, when I had the opportunity to appear before this committee, I thought the argument of trying to find representation from the unorganized workforce in this province was really quite a ridiculous and specious approach. As I sat here this morning and was listening to the earlier deliberations of this committee, I think that point came home a little more forcefully to me as I looked at the members sitting around this table. I do not know of too many members in this province who sit in the Legislature with 100 per cent support from their constituencies.

I guess I could turn the question the other way and ask the members on this committee if they are prepared tacitly to admit that, because a number of persons within their constituency did not vote for them and did not support them in the last general election, they therefore do not represent those individuals. Surely you would reply to me: "That is crazy. Obviously, we do represent those individuals, whether they supported us or not, or whether they belong to the party I represent or not." Surely there is a corollary there between both arguments.

Let me turn the argument around a little further, if I can. The trade union movement in this province is a substantial employer. We employ literally hundreds if not thousands of individuals through our national and international union structures, through our labour councils, through our provincial councils, through our local unions. Would this committee then accept the argument that trade unionists should sit on the employers' side of a bipartite agency representing employers' views? My view is you would probably disagree with that concept as well.

For those reasons, I think to continue to trot out this herring—although we might improve the complement before the committee at the bipartite level, I would argue—but to trot that argument out is quite foolish to my mind, specious and ridiculous. The fact is that every legislator sitting here knows full well that labour legislation currently on the books historically in this province has always been advanced, without exception that I can think of, by the organized labour movement agitating for change.

When that change was made by the government of the day in some legislative form, it applied to all workers across the province, whether they were organized or unorganized. I have yet to hear a government say: "We want to make a distinction. It was the union guys who argued for this, therefore the legislation only applies to them." I have seen a few shallow arguments in my life, but with that one you will fall through the ice before you get three tows on it.

The second question, Mr Mackenzie, let me answer in two ways. There is a concept that somehow a neutral chair will find the resolution to an impasse between two parties, but again, I think this committee has to consider what kind of a neutral chair you are talking about. Are you talking about a mediator within the structure who would not be full-time and has no voting privileges in the decision-making role between the parties, or are you talking about someone

who would be in that position as a chair with some powers of an arbitrator, where in effect they do have voting rights and are the deciding factor?

I want to say to you that both views in my mind are somewhat flawed, particularly the arbitrator role. Once you put in place the third party, who all parties in that process understand will ultimately make the final decision, then people being to posture and position for the best contract situation, the final offer situation, to get themselves into a position to lobby that arbitrator so that he comes down on that side of the issue. All sorts of things creep into that which are, I think, impediments to the process of arriving at an agreement.

If you are talking about someone who is a neutral chair outside of the agency, who somehow comes in in a mediator role, quite frankly I do not think we have even considered that. But again I think what must be understood there is that person, if that is the position of the committee being advanced, would be one who only serves as a facilitator and would have no authority within the agency to arrive at an arbitrary decision or a decision if there were an impasse.

Finally, I have to rely on my experience that in our negotiations as labour representatives in the bargaining forum with employers, and midterm between collective agreements as well, through the whole grievance procedure—although there are a number of cases that are referred to arbitration, they tend to be administrative—the fact is that, to get to the principles of agreement, those situations are settled by far, with very few exceptions, between the parties themselves. You know full well that there is a lot on the line: you have to arrive at some position which is acceptable to both of you and you work to that position.

My answer is, if I can conclude, if you inject into that a third party, the parties are either reliant upon that for resolution, or, secondarily, they dismiss him because he is in a mediating role and they do not like what he is saying anyway.

Mr Carrothers: We heard some comments on the way reports or statistics regarding accidents are reported, and I am wondering if there was a serious questioning of the type of safety record that Falconbridge had set out in its brief this morning. Was the implication of what you were saying that some of these statistics are not reflecting the situation in terms of their—

Mr Wilson: First of all, let me respond to the question that you directed to Mr MacDonald and then let me come to that. I think—

Mr Carrothers: I did not, but you can respond to it anyway.

Mr Wilson: I thank you for the ability to do that. Clearly, when we talk about one worker per working day, it is based on the fatality numbers that we have not dreamed up, we have them from the Workers' Compensation Board. So we rely on them as being accurate. What we do not see from the WCB, however, and it is no fault of the board, is the true number of accidents that occur in this province.

I just quickly glanced at the Falconbridge document, and if you look at the chart there, it shows a decrease in the incidence of accidents; but when you get further back into it, it shows a marked increase in the number of medical aids. We know full well what is taking place out there in the workplace; in fact, we have done some polling on this and will continue to do so in the coming year.

In an attempt to avoid compensation premiums, employers are exacerbating an already troublesome trend by increasing numbers of employers who are not having workers report correctly, nor are they reporting correctly, accidents under the Workers' Compensation Act. That is the reference we have made in our brief to the earlier conclusions of this very committee.

Mr Carrothers: I too had trouble understanding this chart. When you look at it closely I think what they are trying to say is that they have the lowest reporting statistic of anyone and I guess that is the question, whether you were disputing the fact that they seemed to have, at least relatively within their industry, a pretty good record.

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Mr Wilson: What I tried to point out to you is the general trend that we are now experiencing within this province totally.

Mr Carrothers: I understand that point.

Mr Wilson: I cannot speak specifically to Falconbridge.

Mr Carrothers: I guess what I wanted to come down to is that I accept the point Mr Edey made that what has improved the situation there is the involvement of the workers. What I see apparently happening there is that the workers' complaints are taken very seriously at Falconbridge and we have arrived at a situation where they seem to have come up with a record better than most. I am wondering if that is in dispute at all.

Mr Wilson: I have a problem. The union currently within Falconbridge is not one of our affiliates.

Mr Carrothers: I see.

Mr Wilson: But I believe that later today you will have an opportunity to listen to an affiliate of my organization, the Steelworkers from Local 6500 in Inco, which is a close parallel to Falconbridge, where they have had workroom inspectors. I believe that they will speak to some extent on that very subject with you. What I am saying, I think, is that in order for you to maximize your question, it would be much better to direct it to those persons who have real live experience every day.

Mr Carrothers: That is, with Falconbridge. Okay. Let me just ask one final point then. The concern that I seem to hear them saying, and they are not the first that have come forward, is that in their workplaces where they—I guess just to accept for the purposes of argument—have good safety records, they have achieved some kind of balance and understanding and the thing is working well. It is kind of a mutual respect situation. They then put forward the proposition that somehow this bill is going to imbalance that and destroy what exists. I am wondering if you have any comment on that.

Mr Wilson: I get a little concerned when I am hearing this theme of all we need is more co-operation on the workplace floor, and somehow, magically, that is going to resolve the difficulty we have. I said in Toronto, and I will say it again, the bare fact in the workplace is that a manager, a supervisor, someone empowered to act on behalf of the corporation or the business, has the right to stop work at any point in time, any day of the week that people are working in that workplace.

What is wrong is we have the numbers before us in terms of fatalities and injuries because that discretion has not been exercised enough in the interests of workers. It only seems to change, based on the experience here in Ontario, with the worker inspectors, with the other jurisdictions in the world who have systems such as ours. We spoke about them earlier, the state of Victoria and Sweden. It only seems to have an impact when workers have that equal ability to protect themselves in the workplace.

I guess I can say that if employers are saying to us that we are the ones who should be vested with the singular authority to determine whether or not a job is safe, then they also, concurrent with that, have to accept the responsibility for every workplace fatality and every workplace injury.

I am amazed at the restraint that workers are practising in some workplaces in this province in response to what they see happening in front of them. I understand this committee had an opportunity to listen the other day to Mr Woods from the Canadian Paperworkers Union, a long-standing member of principle and of standing in his community in Fort Frances, where he said in his 27 years, he has not yet seen a supervisor or a managerial employee chewed up, injured, gored or killed; it has always been the workers.

It is a pretty protected position to say: "We are going to take care of your interests and we don't have to worry about it because if it goes sour it isn't going to hurt us. It is going to be workers' bodies all over the workplace." The only way that is going to change is when you empower workers in the same way that we do in society, outside of the workplace.

I have every right, as a citizen, to protect myself anywhere I walk in society because that is the law; it gives me that right. I suggest this committee ought to seriously consider what your answer is to workers when they say, "Why am I different as a citizen when I walk into the workplace?" There is no difference.

I also want to make one further point, because it is attached to this question very directly. Because of the position I occupy, I have been engaged in a number of discussions at the urging of both business and government at both federal and provincial levels, as have other leaders in the labour movement at the local union and full-time level within our organizations. We have been encouraged to engage in dialogue with the government around the whole question of partnership and economic planning and competitiveness.

I want to tell you, if we cannot get a resolve from the business community on something as basic and as fundamental as the right of workers to protect their person in the workplace, how can we possibly then expect on economic questions, on questions of competitiveness, on questions of sharing the pie, on questions of how the interest of workers will be redirected and addressed in this whole question of economic competitiveness on a worldwide basis—if we have no hope of receiving any economic justice, if we cannot get the basic justice of protecting our person in the workplace? The business community ought to seriously consider that aspect as well.

Mr Dietsch: I would like to put a question in relation to your comments with respect to the fact that you feel the bill is a step backwards from the

present act. I am a little hesitant to have a clear understanding of that, recognizing that the act provides for some additional 20,000 joint health and safety workers, provides for a shared makeup of the associations, half labour and half management, provides for shared responsibility on the agency of half workers and half management and provides for extensive increases in fines. More important on that is the fact that directors and leaders of corporations will have the potential to be held accountable, to make sure that if there is violation, there is an attachment to the top of the ranking.

The certified worker: some of the areas of concern that have been expressed to us by both management and labour were with regard to some of the parameters of what the certified worker does. I think the constant approach we have had from both labour and management is agreement on the continuing of participation in training to increase and enhance safety in the workplace. How do you feel these things are a step backwards from the present act?

Mr Wilson: Let me point out one very good example of that. It has to do with what business has said it now accepts although it had great reservations about it 12 years ago, and that is the individual right to refuse. It does not matter how much training a worker has, if he is faced with a job on a punch press, for example, which you would be familiar with, and knows that machine is wrong, that it does not sound right—you know the sense I am talking about, when you are working on a job and you know there is a repetitive piece of machinery and it is not sounding right and it is not operating correctly.

Now the worker does not have the right to refuse unless it is clear that danger is imminent. That is a step back from the legislation because that imminent characteristic was considered by this very same Legislature in 1978-79 when Bill 70 was introduced and was rejected by the government of the day as being too stringent a criterion for workers to have to address.

How can a worker under this current proposal, advanced by the minister in October, adding this criterion to the individual right to refuse, then respond? They have no right tacitly. They have to work at that machine until the damn thing flies apart in their face because they have no grounds to refuse.

Mr Dietsch: My 24 years in the workplace indicate somewhat differently in what happens in some particular cases.

Interjection: As a manager?

Mr Dietsch: No, it was on the floor. I operated a punch press as a matter of fact. I have had considerable experience on a number of jobs on the factory floor. Your friends in the audience, albeit they give you some verbal support, I think should listen to what is being said. I think that with the punch press scenario you put forward, it just so happens you hit a very good example because exactly the same thing has happened to me.

Mr Wilson: I quoted it because I knew you were familiar with it.

Mr Dietsch: Quite frankly, we have in many of the workplaces—I recognize not all of the workplaces—the individual right to refuse, the opportunity, if we hear that sound and the machine is not quite working properly. I can relate to that because you are quite right in terms of recognizing that over a number of years you pick up by ear those different sounds that come into place. In the workplace where I worked, I used to take it right to the maintenance shop and informed the supervisor. Albeit, that area is still covered under the act and in fact enhanced under the act in some respects.

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Mr Wilson: Michael, it is not. When you add that imperative of imminent danger, that takes the worker out of that situation. Unless you can prove that something is drastically wrong, immediately, you are out of the game. You do not have a legislative right when you get into the Libbey-Owens-Ford situation, where the employer then can—I am not saying will, but has the ability, the discretion to then fire that employee on the spot for refusal, for insubordination.

We all know what that clause means in collective agreements. The worker is faced with having to face months of process to try and be redressed. Now surely that is not the intent of this committee or this government in trying to resolve the difficulties workers face. I quoted that very example of a punch press because I was familiar with the work you had done in your previous employ. It effectively refutes some of the testimony I heard earlier this morning from Falconbridge, that workers are not in a position to understand clearly the dangers inherent in their workplace. I want to tell you, nobody is better trained to know what is wrong on health and safety issues in their immediate work environment than the worker and, quite frankly, the supervisor who has jurisdiction over that area.

Mr Dietsch: I want to get back to the present act. Are you telling me that in relationship to the

enhancement of the participation on both the association and the agency, by being 50 per cent labour and 50 per cent management, this is not a step forward in legislation from—

Mr Wilson: It cannot be gauged as a step forward because we do not have an agency yet. We have a proposal. You asked me if that was a step forward. That can only be judged by what is currently within legislation.

Mr Dietsch: Your comment says here that Bill 208, the amendments, will take us backward from our present practice under the act. Under the proposed amendments that are put forward, with that participation, do you see that as a step backward?

Mr Wilson: Now you are referring to the introduction of Bill 208 and the amendments.

Mr Dietsch: That is what we are here talking about. We are not talking about another act.

Mr Wilson: Hang on a second. You asked a question. I responded one way. Now you have rejected that. Well, let me do it on your turf then. If you look at the amendments proposed by the minister in October, there is no question that they are a step backwards from where they were in February, which quite frankly was not enough. I do not know how a government can sit in its place and say to the private sector, "We are going to impose upon you a standard we recognize as a requirement for adequate health and safety protection for your workers and employees, yet somehow, we do not have to do it ourselves."

I want to tell you that is at least is dishonest. It certainly is a double standard. How can you exclude your own employees from provisions of the legislation? That is one. Two, there is the weakening of the ability of workers such as will be enunciated more clearly by the Local 6500 delegation today, their good experience in reducing costs, pain, injury, suffering with worker inspectors, which is the model for the certified representatives. You have stepped back from that with a really swampy proposal about good and bad employers that cannot be relied upon in a reporting system to make determination, because we know what we are experiencing with workers' compensation reports. Do you want me to go on?

Mr Dietsch: No, what I want you to answer is the question. Whether it is under Bill 208, the participation of workers on the health and safety agency, as proposed, or whether it is on the association, 50-50, or whether it is under the new amendments, that does not change. The participation—

Mr Wilson: Let's quit dancing around this. What is important on Bill 208? What is important on Bill 208 is what nobody wants to talk about, and that is Bill 208, at the basis of it—

Mr Dietsch: You are still not answering the question, Gord.

Mr Wilson: Let me make my comment and then you can make your analysis.

The Chair: I am going to bring this to a halt because we are out of time. If you want to have a final concluding question in response, that is fine, but we are going to have to call this presentation to a halt. Mr Dietsch, do you wish to put a final question to Mr Wilson?

Mr Wilson: I will try to answer your question.

Mr Dietsch: Whether or not Bill 208 goes forward with the proposed amendments that have been suggested by the minister or whether Bill 208 goes forward in its original form, the facts remain the same. The proposal for the 50 per cent workers and the 50 per cent employers in the makeup of the agency and in the makeup of the association does not change. Do you consider that a step forward?

Mr Wilson: Every platform has to have pillars to support it. The framework at the top with the agency is a step forward in my view, providing it is a bipartite agency without the imposition of a neutral chair. Where the pillars are now weakened is in the ability to apply the logic arrived at and the application of standards arrived at within the agency dialogue to the workplaces and through the association. That is where the whole thing falls down.

It is a little bit like having a car and you are trying to get up over the hill with it and you run out of gas. Well, if you do not give us any gas to get over the hill, we are going to slide right back to where we were in the first place. That is the best way I can answer it.

The Chair: Thank you very much for your presentation.

Mr Wilson: Thank you. It was a pleasure seeing you again.

The Chair: Is there anyone here from the Sudbury Home Builders Association? The home builders association was scheduled to make a presentation at this time but I do not see anyone here in the room. In that case we will move on to the Sudbury and District CUPE Council. I believe they are here.

Interjections.

The Chair: Order, please. Would people who want to carry on conversations do so outside this

room. We have another presentation now and we are anxious to hear from them.

Mr Hould, we welcome you to the committee. If you will introduce the gentleman with you, we can proceed.

SUDBURY AND DISTRICT CUPE COUNCIL

Mr Hould: I would like to introduce Joe Devitt, representative for Ontario from our national union, CUPE.

First of all, I wish to express my appreciation for allowing the Sudbury and District CUPE Council this opportunity to appear before this committee and address our concerns under Bill 208.

In January 1989 amendments were presented to the Occupational Health and Safety Act which we saw as a step forward. Many of our labour leaders, some of our most knowledgeable health and safety activists and many of our rank and file members, who every day put their health and safety on the line in jobs that some of us would not want to do and in work that exposes them to danger we may never understand, reviewed the proposed legislation. Labour had serious reservations with the bill, but despite the flaws we finally believed that it did represent an opportunity to substantially reduce the totally unacceptable number of fatalities, injuries and diseases currently suffered by Ontario workers in the workplace.

In 1988 more than 300 workers were killed on the job. Four of these were from CUPE and as a representative of CUPE we say that four is too many.

We have already heard some of the statistics, as presented by our last speaker, so I will not bother going through them. Basically what we have done in this brief is that we have incorporated some of the statistics we feel are warranted knowing about.

For many years labour has demanded that the act be improved. After years of promising, the Ontario Ministry of Labour finally presented its amendments to the Occupational Health and Safety Act.

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The present situation: The law stipulates that the employer shall inform all its employees about dangerous conditions in the workplace, yet when you talk to these employees and you ask them if they are aware of the hazards, the majority say no. Then you ask yourself, what about the workplaces not covered under the act and are those workers informed?

Under the act it lays out the conditions, duties and responsibilities for joint health and safety committees. Ask the workers: "Do you have a committee? Who is on the committee? What does a committee do? When do they do inspections?" And so forth. The answers you will get are frustrating and very aggravating, as a person who is involved in health and safety.

You ask the question, what should workers do if they think work is unsafe? The vast majority of them will tell you, first you tell management and then you refuse to work, which I suppose if you read the act is basically what you would follow. Then they are to return to work once they think it is safe—once the worker thinks it is safe—or until management has told them it is now safe to return to work.

Unfortunately, that is the situation we find in a lot of places. You have heard other representatives from the labour movement come up here and tell you about the intimidation and coercion and the way our workers handle themselves on health and safety issues in the workplace. Unfortunately, it is a reality. That is what workers do.

It is usually three months later that the union health and safety representative hears about it at the joint meeting, if it is reported by management. So we ask, where is the internal responsibility system in action? It seems to me that, yes, the employer has allowed health and safety issues to be dealt with in the workplace, internally if you wish, but only at their discretion in a lot of cases.

The employer then decides who has what responsibility when it comes to policies, decisions and costs. It is their responsibility. When someone is killed, injured or diagnosed as having a workplace cancer, all of a sudden it becomes a worker's responsibility. To me, the internal responsibility system is a figment of the imagination of this government. It is an issue to be played with by employers who are concerned about health and safety in their workplaces, and of their employees only because of the cost factors that are involved.

While Bill 208 contained a number of amendments that would take us a step forward in health and safety, as usual the government produced checks and balances that would continue to restrict the rights the bill provided for workers. This was not enough for the corporate leaders, the construction industry and the directors who sit on boards and ultimately hold this government at ransom.

In October 1989 the Minister of Labour spoke of amendments to the proposed bill, which in essence put workers in this province not one step, but two steps back from what was originally proposed in Bill 208. In the original bill we were given new rights with restrictions and checks. The proposed amendments, to my way of thinking, have taken these rights and reduced them to nothing more than vague writing on the wall with further restrictions and checks on the rights we had prior to Bill 208, which to my mathematical way of thinking makes it one less than what we had before we even started.

The word "progress" instils the idea of advancement towards maturity or completion, improvement or onward movement. The proposed amendments by the Minister of Labour instils in us regression, a move backwards, withdrawal, of passing the buck, so to speak. These amendments do nothing to improve the right to health and safety in the workplace, but they do show us that this minister is definitely listening to the corporate lobbyists and not to the workers of this province and the survivors of our dead brothers and sisters.

As we said before in our opening remarks, workers were prepared to accept Bill 208 in its original draft, in principle, though we did want to see some amendments. The proposed amendments by the Minister of Labour have weakened the two issues upon which we supported the bill and not one of labour's proposed amendments have been placed before the committee by this minister.

As we have heard before, and I will just quickly go through them because we have already listened to them this morning, the first problem is that Bill 208 provided for a bipartite agency with full-time co-chairs from labour and management and six part-time directors from both labour and management. The agency would be responsible for health and safety requirements and research.

Now, with the minister's proposed changes, there would be only one full-time neutral chair, which in essence marks the agency as tripartite. This is totally unacceptable to the Canadian Union of Public Employees based on our experiences and the ineffectiveness it will create. We do not want a chair who in fact will become a mechanism by which the government will control the agency, as it has done in the past, as it did with the workplace hazardous materials information system project.

The second problem is the right to refuse. Bill 208 had proposed to expand the individual right

to refuse unsafe work by including the word "activity," which meant that we could refuse to lift a heavy load or do repetitive actions that could lead to repetitive strain injuries. This would have clarified the rights of individuals to refuse unsafe work.

The minister, for some reason, now proposes to restrict the interpretation of "activity" to current or immediate hazards or threats. The minister gives the example of lifting as an activity and leaves open, as usual, immense interpretation as to what, if any, other activities are covered. What I refer to in there is when you read the act now. In 10 years we have had more problems with interpretations, direction that is proposed through the act, directives through ministry inspectors, and with the language that is being proposed now, it will just add more of the confusion that our workers are already faced with.

I list two examples in regard to the right to refuse. The first one that came to my mind when I was putting the brief together was a situation in the hospitals and in the nursing homes field. We have situations where we have violent patients who are in these institutions.

We have situations where we have a nursing staff that is reduced due to budget cuts. We end up with one nurse on a night shift who has to go in to control or subdue a violent patient. There is no warning such as you would have in a punch press. There are no sounds, there are no threats. It is immediate and it is quick. This nurse knows that this patient is violent, yet she has to go in there and she had to deal with this patient. It may be just a bed call, it may be a request, but they never know when these patients are going to become violent all of a sudden. Under the proposed amendments, this nurse will not have the opportunity to refuse to enter that room alone on a night shift where the support staff is not there.

We have a situation in a nursing home where a truckload of goods has to come in and be unloaded for the kitchen. The situation now is that in the middle of winter they have one person, one unionized worker, who must assist the two gentlemen who drive the truck in. They have to unload all these supplies from the back of a truck, bring them through a double door that leads immediately into the kitchen area, where we have people who are preparing food, who are doing pots and pans, who are working on the menus and the plans for the day. Now the worker who is unloading these boxes—and we are talking of boxes of food, whether they be square or the

tubs of soap, but supplies for the kitchen—is allowed to wear running shoes. He cannot wear boots, because unfortunately somebody forgot to mention that there are slippery floors. So they have to wear running shoes, they cannot wear work boots. They are allowed to wear a coat. They cannot wear mitts because they have to pick up these boxes. They are exposed to the cold weather, to the elements, along with all the other workers who are in that work station. They all cannot be wearing heavy winter coats.

When the proposal from the union committee was presented at the joint committee, the response was the same as we hear every time we talk to our workers, the cost factor, “We do not have the money to institute a proper situation where the elements would be reduced, where the workers’ exposure to the elements would be reduced.” It is the same old response.

So these are two examples that came to my mind when I was writing the brief.

Included with the right to refuse, what about the continued exclusions of our public sector workers, the police, firefighters, correctional officers, health care workers who will continue to be restricted in their right to refuse? We had hoped that there would have been changes when the proposals came down to cover regulations for the health care workers, but we all know what happened to those proposals, as with any other proposal that comes down dealing with health and safety issues for the workers.

1050

The third problem was the right to shut down. Under Bill 208, one worker and one manager from the joint health and safety committee would be certified and allowed to shut down an unsafe operation as long as the criteria were met. I say to you that the criterion to establish a good and a bad employer has as many loopholes in it as our tax system, which, by the way, was proposed, implemented and carried out by the same government that is proposing this criteria, and it is no stranger to loopholes.

The right to shut down an unsafe operation is a means of dealing with the immediate dangers which occur in a good or a bad workplace. It is also a means of forcing employers to address real dangers in the workplace, and the possibility of such actions makes the employer more responsive to workers’ concerns.

As the bill was written originally, a worker-certified member can stop work and a management-certified member can come along and start it up. That does not sound like a system

of internal responsibility, but more like, “I have a bigger club than you, so I win.”

First of all, our sympathy goes to the workers who have reasonable grounds to shut down the workplace. They will have to contend with an employer who feels the union is abusing the Occupational Health and Safety Act to gain control of the workplace. Then a certified worker has to contend with his fellow workers who will not necessarily be paid because of the stop-work order, as proposed.

Surely if the minister was sincere in his feelings about a safer and healthier workplace with an internal responsibility system that would work, these conditions would not be present in the proposed bill.

You have already mentioned the continued restriction exemption from the right to refuse and the right to stop work by workers through this bill. I touched on the health and safety agency. I would like to address a few areas that are also seen as major concerns, which I am sure will come forward by others, but we would like to touch on them anyway.

There is a real concern regarding the selection of members of the joint committee. Bill 208 requires that labour members of the joint committee must come from the actual workplace, whereas the management person may come from those who, if possible, work in the workplace.

There are a couple of examples I would like to bring up within the public sector. We have a situation where we have a workplace in Sudbury that brings in funding from the provincial government and from a municipal government. In negotiations, the chairperson for a management negotiating committee comes from a representative from the municipal government. I am speaking of a workplace, by the way, that was put on strike because of that very same representative from the municipal government, his argument being that there was not enough money.

In dealing with health and safety issues, and I am saying that the scenario is possible, how can a representative of the employer who does not work in a workplace, who does not inspect the workplace, who may possibly not even have his office in the same location, the same municipality, the same city, how can that employer representative sit as a chairperson or as a representative on the employer’s health and safety committee if he does not even know what the issues are, except for what he has read in a

report received over a telephone? That is one situation.

We have the school boards that have trustees who do not work in the workplace, who potentially, under these proposed amendments, could sit on a health and safety committee.

Mr Devitt: They do.

Mr Hould: Joe informs me they do.

We have a nursing home whose chief negotiator sits in an office down in southern Ontario, who flies in to deal with negotiations. The proposed amendments under Bill 208 establish the same scenario. In effect, the employer could establish his health and safety representative or representatives who do not even have to be working in the actual work location. We have a serious problem with that. We have problems with the employers who work in the workplace now. Can you imagine what it would be like if we had a representative who did not even work in the workplace?

The other concern we have is the responsibility of the employer to ensure that one worker and one management member of the committee be certified. We want to continue to control who will act on our behalf. The language proposed indicates that this may be taken out of our hands. If this is the case, then maybe it should be the joint committee's responsibility to ensure at least one worker and one management member may be certified.

One of the features of the internal responsibility system was to identify potential hazards and take corrective measures. With the language proposed under Bill 208, we see further limitations to a system that already does not work in a lot of cases. We have seen situations time and time again where the employer, either through intimidation or just plain pressure, has restricted inspections of the workplace. Excuses range from the cost of living or the cost of having someone off work doing inspections to not really necessary because of a good work record of that department, to the final insult, "Well, do we really feel that with our limited knowledge of health and safety that you or we can do a better job than our safety department?" It is not a question of doing a better job or having more knowledge of how to look at the workplace, which, by the way, is the case in a lot of situations. But we, as workers, have been trained, have been educated to the many and varied issues of health and safety in the workplace and are not biased in our feelings.

I heard the example, when I first came in this morning, of Falconbridge, about the training,

about all the varied areas where a worker would have to be trained to deal with issues. I remember the first time I got involved in health and safety. In the first school that I ever attended as a student, I watched a film where a gentleman stood up in front of a group and said, "If I walk into a room and I see a sign on the floor or I see wet spots on the floor, I am intelligent enough and I have enough common sense that dictates that that floor is slippery and that it is dangerous and that something should be done about it."

I take it one step further and I say that workers who are attuned to the issues of health and safety, not necessarily specifics, and who are concerned about the health and safety of their fellow workers and other workers in this province—the only training they really need is that they understand what is happening out there, that they know what constitutes danger: that with loud noise, you will go deaf; with wet floors, you will slip; with funny noises on punch presses, the mechanism is not working properly; that cold creates stress; that cold creates a situation where you are not working in a safe environment. It does not take much education for that.

We are not looking at how to save money. The workers who are representing workers in health and safety issues are not looking at how to save money by not improving the ventilation system in a paint shop but looking at providing a healthier workplace for these workers who, in turn, reduce the amount of absenteeism, who do not go seeking medical treatment and, in return, reduce the cost of medical benefits.

The Ontario Federation of Labour has presented many proposed amendments. Among them are employers who take reprisals against workers must be prosecuted; labour should be able to bring in technical advisers to the workplace; no worker is assigned to a job that has been refused until that refusal is resolved, and certified worker members should investigate all complaints to all workers. These are but a few of the amendments proposed and these were the ones that have been pointed out to me by workers in workplaces, which they understand and they see as tangible issues at this time. These are issues that have been pointed out to me by workers who have not had health and safety training but are aware of health and safety issues.

1100

We have waited years for changes within the Occupational Health and Safety Act. We have heard promises of a better situation for health and safety issues, more standards, more regulations. It seems to us all we are getting with the proposed

amendments to Bill 208, and along with Bill 208, is more checks and balances.

Moving right along, we would venture to say that we do want a healthier and safer workplace. The employers do want a healthier and safer workplace, but they want it their way. We would venture to say that the corporate employer lobbyists are against Bill 208 for one reason and one reason only, and that is fear—fear that they will lose something they call control of the workplace, which in essence means control of the workers. We would further venture to say that should this government accept the proposed ransacking of Bill 208 and decide not to incorporate labour's amendments, then not only the government but also the employers who stand opposed to our position are accepting the death, the injuries and the occupational disease of our workers as the accepted price that these workers must pay to work in this province.

The Sudbury District CUPE Council wishes to go on record that we endorse the proposed amendments put forward by the the Ontario Federation of Labour and totally oppose the minister's proposed amendments. On behalf of the CUPE locals which we represent in Sudbury, we respectfully submit this presentation on their behalf and once again thank the standing committee for allowing us time here today.

Mr Fleet: Thank you very much. I was interested in particular at the end of your presentation, and you say, "We would venture to say that they do want a healthier and safer workplace, but they want it their way." Some of the evidence that this committee has heard is that there are somewhat different processes that different corporations use in terms of training and providing a relatively safe workplace, better than industry averages in terms of the kinds of presentations that we had heard.

The other thing that you go on, right after that, in your presentation to refer to is the question of fear. One of the problems, I think, that the committee has had is that we are hearing lots of fears. Some are related directly to the legislation and some are related to perceived hidden agendas. The fear that is frequently brought up by union representatives is the fear that the bill will not go far enough or the fear that more people will be injured and killed. I understand the concern, and I appreciate the quality, and I mean that quite sincerely, of the presentations that we have consistently heard from unions because of that fear.

The point of view of the employers is something that you have at least partially

recognized in your brief. I think there is a fear not that employees will want to come forward with valid reasons for a safer workplace, but that at least in some instances, some employees may use it for other purposes, ie, in a bargaining situation, presumably where there is already a very difficult bargaining situation in existence.

Even the Ontario Federation of Labour brief indicated that in referring to information from Sweden there was at least—the language here—"the exception of the odd frivolous case." At least in some instances, even there, apparently they had some degree of problem with that. Because it is an area that has not been explored in North America in any jurisdiction that I am aware of, its employers should have those kinds of fears as well.

One of the functions of this committee is to try to deal with both the substance of making a workplace safer, but also the fears of all sides, that various parties have about what is in the bill and what may be happening generally. I would hope both yourselves as presenters and others in the audience would be able to take into account the function that we have to deal with. I understand where the accusation of giving in to lobbyists is coming from. The reality is, it is our duty to at least listen to what those concerns are, just as we listen to the union concerns.

The last thing I would like to point out that this act provides—because I think this is very important, and I am going to quote: "Every director and every officer of a corporation shall take all reasonable care to ensure that the corporation complies with this act and the regulations; orders and requirements of inspectors and directors, and orders of the minister."

That is a new obligation on directors and officers of corporations. Once Bill 208 is passed—and I am certain that provision is going to be contained in the new bill—any officer or director who breaches that obligation is going to be subject to a \$25,000 fine or 12 months' imprisonment or both, as a maximum penalty under the law. It is one of the ways—it is not the only way, but it is one of the ways—that we are saying to every board of directors, to every officer of a corporation, that there is an obligation to pay attention and to be knowledgeable about the health and safety provisions of the act and what is taking place in the workplace.

I guess the bottom line to what I am saying is that we hear what you are saying. We are struggling with the various provisions and getting down to the actually wording, and when we do clause-by-clause, getting down to the

actual word and what each word might mean and trying to strike a good bill that will advance workers. I realize none of this has been put in the form of a question, but on the other hand—

The Chair: Will you leave enough time for one more question, Mr Fleet?

Mr Fleet: Yes. I am just going to wind up. I want to leave it open for them to comment and to respond, even though I have not put it into a question format.

Mr Devitt: I was actually waiting for a question but I think we got a statement, with respect.

The Chair: Anyway, Miss Martel has a question for sure.

Mr Devitt: Could I just make comments, please?

The Chair: Yes.

Mr Devitt: To comment on what has just been said, our fear is that the Ministry of Labour has listened to the employers and certainly changed their amendments to suit their need. We as labour have put forward 19 amendments and we do not even see one of them brought forward by the Ministry of Labour. Not one, and you talk about fear.

As a health and safety representative for Ontario, I would like to take every one of the committee members here, when we have a fatality, to meet the family of that person who has died. I would like to take you into the workplace after that death has taken place and see the fear in the workers who maybe have to do the same job. We see nothing in these amendments that have been brought forward by the minister.

I also have a concern that the questions that have been asked, and I see this this morning especially, have always been towards labour about management's concerns. I have been with you in St Catharines, I have been with you in Hamilton and I have been with you in Toronto and I have yet to hear, really, the Liberal representatives here ask questions about workers' concerns towards management. I have not heard that yet.

Mr Fleet: With respect, you haven't listened very carefully.

Mr Devitt: Not very often.

Mr Carrothers: I have posed questions. We have posed a lot of questions.

The Chair: We are rapidly running out of time. Do you wish to respond briefly, and then Miss Martel, the final question.

Mr Hould: Just to respond to the statement that was made so that nobody leaves here with a wrong impression. We would venture to say that they do want a healthy and safer workplace but they want it their way. What I am referring to there is their cost factors. I reiterated that in the last part of that statement where the only reason they are looking for it is cost factors. Every time we bring up issues it is cost factors. Every time we bring it up it is the cost-effectiveness. We see that in the interpretation of the existing act.

When I talk about fear, I say fear that the worker is going to take over the workplace, that we are going to control the employer some day in 1999. I say to you that the so-called neutral chair or the system that is existing now will see that that never happens. But that is the fear that the employers have. In 1979, when the act first came in, all we heard about was this Occupational Health and Safety Act: "The government has let us down. They have put the power of control of the workplace into the hands of the workers."

It did not take us long to realize that whatever the government gives us in legislation, they also take away. They give us checks, they give us limitations, they give us balances to ensure that we will never get control of this workplace.

The Chair: A final brief question, Miss Martel.

1110

Miss Martel: One? Let me do it this way then, Mr Chairman. Ken, I think you were involved in the hearings on Bill 162. I know CUPE was represented through Jack White, but it seems to me you were at one of the presentations. I want to ask you two things. After all that was said and done on Bill 162, (a) what changes were made, and (b) do you expect it is going to be any different here?

Mr Dietsch: That is a good question on Bill 208.

Miss Martel: Mr Fleet made the statement, if you care to listen. If you listen like you did on Bill 162, we are in deep trouble.

The Chair: The question has been asked.

Mr Hould: This is only the second opportunity I have had to come forward and make a presentation. I did on Bill 162 and I did it here today. I sat there this morning and I listened to the presentations. I have watched the reaction of the committee and committee members, I have listened to the questions that committee members have asked and I have listened to the responses, and in all honesty, Shelley, from what I have seen in the past three hours, I do not think we are

going anywhere. The only way we are going to go anywhere is if this committee starts to listen and starts responding to the concerns that the workers are trying to tell them are out there. That is the only way we are going to get anywhere.

I recognize the work this committee has and I recognize the position they are in and the situations that stand before them. But start listening to what we are saying. We are not talking crap here. These are issues that we talk about and we see every day. I bring back what Joe said. You people are travelling around this province, you are listening to us talking, you think we are trying to bamboozle you, we are coming up with ideas. I heard the questions. Some of the questions were idiotic. Like the facts; you want to know what the facts are. If you hear facts over and over again, I am sure they are going to be substantiated somehow.

But I rest the same point that Joe brought up. I will bring this committee around and we will introduce you to the families who have lost workers, who have lost family members, who have died in the workplace, who ended up in the hospital with cancer. They cannot breathe, they cannot move. Talk to those people. Unfortunately, dead workers cannot come back and talk to you. You can only read the statistics. Thank you very much.

The Chair: Mr Hould, Mr Devitt, thank you very much.

Mr Wiseman: Before the next presenters come up, it must have been awfully hard for the last group who were here to present their brief with the noise that was going on inside the room and outside the room. If the press want to interview people, I think they should go further down the hall, because we could hear the interviews going on. For anybody trying to concentrate on the brief or present the brief, it was not very good for them or for the rest of us trying to concentrate on it.

The Chair: Point well taken.

Interjection An unusually wise observation.

The Chair: We do encourage people to carry on their conversations outside the room because it is not fair to people making the presentations or to members of the committee.

The next presentation, and the final one for the morning, is from Rio Algom, Jim Roxburgh.

Interjection: No show.

The Chair: Order, please. Mr Roxburgh from Rio Algom?

Mr Napier: I wish I was.

The Chair: Yes, I know you are not, that is right.

Mr Napier: Mr Roxburgh could not be here. I am Guy Napier, and I have Alan Watkinson with me to help me out.

The Chair: We welcome you to the committee. The next 30 minutes are yours.

RIO ALGOM

Mr Napier: Mr Chairman, committee members, fellow workers, on behalf of Rio Algom Ltd, Elliot Lake division, I appreciate the opportunity to present our comments on the proposed amendments to the Occupational Health and Safety Act as described in Bill 208.

We have participated in the report of the Royal Commission on Health and Safety of Workers in Mines, the 1976 Ham report. The commission, we believe, described the Ontario act and what it should include at that time. The Burkett commission, Towards Safe Production, and the Stevenson committee also helped us to understand a lot of things, especially Burkett in regard to the internal responsibility system.

We find it difficult to understand why the internal responsibility system has been ignored and contend that it will not be effective if we amend the Occupational Health and Safety Act as is suggested in Bill 208 in relation to the internal responsibility system.

We believe the health and safety committee is important to any organization. We have a number of committees. More than 100 employees or four per cent of our workforce are on one or more committees. That is just a small part. We have many other teams and committees, ad hoc committees, etc. These committees are responsible for inspecting and correcting substandard practices and conditions.

We also try to get them talking about procedures and how to proact in prevention of accidents instead of reacting after the accident has happened. If a problem arises regarding the follow-up, the problem can be taken to the next group. That is a quarterly group. The problem must be resolved and action must be taken in the line somewhere.

We have two health and safety inspectors at each of our mines. They are hourly rated people selected by the union to work in the safety department. We see their position threatened by this legislation.

The chairman of the joint safety, health and environment committee is a full-time position paid for by the company. The chairman is elected by the members of the United Steelworkers of

America, Local 5417. We also see this position threatened by the legislation.

In regard to the internal responsibility system, we believe every worker must be involved and committed to have complete knowledge of the work being performed and understand that he or she is responsible and has the authority to stop his or her work if there is a substandard condition or possibly a substandard practice being done at that time. To remove this responsibility and authority—and in our opinion it will be removed, in perception if not in fact, if a licensed person or persons are placed in the industry as recommended—we believe is both dangerous and undesirable.

In the matters of worker health and safety, there are only two basic models.

One is the policeman's model. Here the law spells out what must be done and how it is to be done. This is the Occupational Safety and Health Administration model in the United States. I do not believe that Ham or Burkett went down south to look at it. They went overseas to Belgium, Sweden and those countries that have to a certain extent the internal responsibility system. We believe Bill 208 has the perception, if not in fact, of leading the Ontario health and safety act down that policeman's path.

Internal responsibility system: This is a system based on self-compliance, recognizing the direct and contributive factors of all people concerned within the system, which requires commitment, involvement and accountability. Workers have a clear obligation to perform work by standard procedures and rules. Supervisors have the responsibility to see that standard conditions of work, tools and equipment are maintained. An internal system of responsibility requires surveillance. The major sources of surveillance, ie, audits and inspections, are the joint health and safety committee, worker-inspectors and other internal contributive groups which play an important role within the system.

1120

Really, what we have here is what the joint health and safety committee and Rio Algom have worked out for this. I really believe, sir, that this committee should have a panel on the internal responsibility system to understand it so that you understand just what it is all about, and not the policeman's model. This works to a certain extent.

Naturally, we fall on our face the odd time. If we have a poor supervisor we may fall on our face, or sometimes it is the worker, but usually it is the supervisor. It is usually that the supervisor

does not understand the system and he bucks it, but it is up to us, as management, to make sure that does not happen, at least too often, because he has to be trained like all of us. The law specifies standards and objectives to be met, but it is not prescriptive. This is what I am afraid you are getting into with Bill 208, prescriptive; not what should be done but how it should be done. If there is a failure and it is not working, then enforcement must be done. We agree with that, but I think audits etc could help us out.

The workplace health and safety agency: We believe that if the agency, as suggested, is established, it will weaken the relationship that has been established throughout the company. It must be understood that the safety association must be, and must be seen as, a group of individuals who know mining. This is what we are interested in. I am afraid to say we cannot be interested in the other industries. We are interested in mining being the safest type of industry there is. I will show you a chart that shows you that we are. It is lost time.

Interjection.

Mr Napier: I beg your pardon?

The Chair: Order, please. Mr Napier, go ahead.

Mr Napier: By centralizing these associations, we believe that the small associations will lose their effectiveness, their individuality. Later we will show you drafts that prove that the mining industry is successful in preventing injuries.

Right to refuse or stop work: We agree that the worker should be trained and assisted by management, union or whatever, to stop performing any work that is likely to endanger him or her. We disagree that there should be certified members doing the work the person performing must do. It must be where the work is. The person there must know his job, be knowledgeable and trained, and he should stop work immediately, not have some other one stopping it for him. It just does not happen. In a mine, it just could not happen. This approach will cause trouble between the supervisor, the worker and the certified person. The internal responsibility system must be in place, and that is the thing that must work.

Statistics: We are proud of what we have accomplished at Rio Algom since 1980, and yes, it is with a health and safety inspector. It is not likely that we would not have accomplished it without one. They are as good as any staff person in inspecting.

One of our mines, Stanleigh Mine, has gone 22 months without a lost-time injury. I know that we can be criticized for bringing people back to work, but that is what it is all about. We bring back not only workers who are hurt on the job; we bring more workers back who have been hurt off the job, on the highways, on the porch, slipping down the stairs or whatever. He can come back or she can come back to work too, and we are very proud of that. The last lost-time injury at Stanleigh was 15 March 1988. That was 22 months ago and that is a mine of 500 people, more than 1.5 million hours' work. Our other two mines—one with 1,000 people has gone close to 1 million hours, and so has the mine with 600 people.

We know that it takes training to do this. We have had, and still have, one-day training seminars and the safety/loss control program for every employee. The union people and the inspectors get a 40-hour course with management. On WHMIS, we have had an eight-hour course that all our people have gone through, and also the radiation course that is under the federal regulations.

The trends are illustrated in this following exhibit. The total injuries are the total traumatic injuries at Rio Algom. They are traumatic, and I must say that disease is not included in those numbers. But you can see the medical aid injuries have come down, you can see the lost time injuries have come down and you can see the total injuries have come down on that chart. We are very proud of that. Sure, we maybe started badly, but we have worked at it and we are very proud, and the union has helped.

The next one, and we are very proud of this one, shows all industry at the top, and at the bottom there is levelling off and going up a touch, and it shows the mining industry coming down. Those are the Mines Accident Prevention Association of Ontario numbers, but we can argue those if you would like. I am not, but some people may. Basically, we are very proud of that chart in the mining industry. We have lowered our injuries, our lost-time injuries, below all industry in Ontario.

The next one shows the lost-time injury frequency of class 5 versus MAPAO, and those are the Workers' Compensation Board numbers on top. But the trend is coming down because they include a lot of other compensable injuries. They include even people who are at work all the time. If our people are at work and are not earning as much as they were earning, especially at one-time bonus, that would be included in

those numbers and also all the illnesses and white fingers, silicosis and also cancer. It is included in the top but not included in the bottom.

This is quite an interesting one. It shows when the act came in that we had health and safety committees much better than what we had prior to 1978-79. It shows that there has been, in lost time again, continual decrease, with the exception of 1980-1979 was lower than 1980—and then there has been basically a continual decrease down to a bit over 2.3 or 2.4. That is up to September 1989.

So you can see, gentlemen, that the mining industry has—hell, there is lots of room for improvement, and I agree with you, but at least give some credit.

1130

Some of our recommendations are that the right of the individual to refuse to work is the approach that we must take to prevent any loss. We cannot just give it to certain people with an 80-hour course or a 120-hour course. Every person has to be trained on the job to make sure that he or she can stop that particular work and get it fixed up between the worker and supervisor. If there is a problem, then our management wants to know so that we can fix it and make sure that it does not happen again. The internal responsibility system must be used by both management and worker. The policeman model is not acceptable. All employees must understand their work areas and not a certain few to stop work. We must—

[Failure of sound system]

Mr Napier: —that the present rights provisions are effective in protecting workers' safety. Thank you, gentlemen.

The Chair: Thank you, Mr Napier. Just for your information, when this committee was dealing with the mine safety in Ontario mines, we wrestled for a considerable length of time about the whole internal responsibility system versus the policeman's model, and there was some agonizing among some members of the committee, but in the end we unanimously agreed to try and continue to support the internal responsibility system. So this committee is on record in that regard.

Mr Napier: I am glad to hear that.

The Chair: Secondly, just briefly, I am confused by something you said when I see your charts. You talked about workers coming back to work.

Mr Napier: Yes.

The Chair: To what extent are those people reflected in the graphs that you show?

Mr Napier: The medical aid reflects them completely. The medical aid graph, if you turn to exhibit 3, reflects all the workers who got injured at Rio Algom and reported to a doctor. The lost time is when someone loses time and draws compensation.

The Chair: So those people—

Mr Napier: They are included in the medical aid.

The Chair: Yes, but when you bring them back before they would otherwise be brought back?

Mr Napier: That is a question of what the doctor has said, but go ahead.

The Chair: Would that not then skew the statistics on the severity of injuries and the length of time they are off?

Mr Napier: It could if you want people to stay at home, yes. You are right, it could, yes. The severity in lost time is one thing, but what we look at in the mining industry more and more now is the medical aid. That is total medical aid. I think Falconbridge showed it quite well. They are doing a much better job at it than we are, the nickel industry particularly, and that is medical aid. That is the total people who are getting hurt on their property.

Mr Carrothers: You basically said, if I have understood your presentation, that founding the health and safety law on the right of an individual to refuse work is the way we should go. We have had many people come and talk to us about the difficulties that an individual might have in exercising that right. They might have some difficulty going up against that maverick supervisor you were talking about who is bucking the system, or they might not themselves completely understand some aspects of the workplace that they are working in.

I just want to ask—in view of the fact that this law is of general application and is going to apply in, of course, all workplaces in the province, not just in yours—do you not think we need to do something to buttress or to strengthen that individual's right to refuse, to give him some help; to give him somebody in the workplace who might have more general knowledge in safety and could advise him and help him and perhaps even help take that decision, I guess is what I am saying, for the individual to stop work and help him go up against that maverick supervisor you were talking about?

Mr Napier: I am a miner since 1947, so it is very difficult for me to put myself into a manufacturer's place, but I would suggest to you, sir, that what you should be doing is auditing those particular places and fixing them by one way or the other. But for God's sake, do not interfere. Do not tinker with things that are going good.

Mr Carrothers: I think the object of the bill here is the individual's right of remaining and staying and, I think, still forming the—

Mr Napier: It is perception, sir. If I have a brother or someone who has this licence, the perception from management and also from the worker would be that I do not now have that control. That would be very difficult to sell differently, from our perception.

Mr Carrothers: Do you not think that as the thing comes into force, that perception would be proven wrong very quickly?

Mr Napier: I do not think so. I would hope that it is not in force, but if it is—I have been wrong before, but I believe very sincerely that it is the wrong way of going. It is a policeman model and you cannot have the two models. You cannot have the policeman model with citations or with someone coming around and also have the internal responsibility system. You must have one or the other.

Mr Carrothers: I guess I am confused by why you say, that this is moving to the policeman model, because that individual's right is still the foundation of the thing. You now have certified workers on both sides in committees to help that whole process in the workplace, but you still come back to that individual's right and the work of committees, which I am sure you have and that is why you have had these statistics in the workplace.

Certainly those that have come to us and demonstrated some very good safety records seem to have that kind of committee work in place and have the ability of people to advise others and to talk with the supervisors and get together and work out problems. I am a little confused why you would say we are going to a policeman model. That would imply Ministry of Labour people coming in and working it out and we are trying to leave this in the workplace.

Mr Napier: You are talking about maybe inspectors being steady at places. You are talking about a lot of things there. But I would suggest to you that I really believe that people who are in the workplace should and must be responsible and

not have some knight in white come in and stop it.

Mr Carrothers: In your workplace, are there not people who might have, as a general responsibility, overall safety and that at least attached to their job is a sort of thinking of the whole workplace, and you have committees and workers who are assigned to that task in your workplace now?

Mr Napier: I would hope not. I would hope that the man at the face does that, but naturally we have people auditing and inspecting, like any other place.

Mr Carrothers: And there would be workers who—

Mr Napier: The workers can go in. The inspector is a worker. He is appointed by the union. He can go in and stop it like anyone else.

Mr Carrothers: Is that not really what we are proposing here in this?

Mr Napier: I think you should get back to the baseball game, get back to the rules of it and make sure that the people are competent and write in the act that what competent means is that they are trained, that they have knowledge and that they know the act. If you are saying that in Ontario people still do not know the act, then that is another problem. That is a problem that management, the government and everything should be addressing, and not moving to a different direction, in my opinion.

Mr Carrothers: I think what we are trying to do with this legislation is put in place in all workforces in the province some of the types of mechanisms you have established, which have resulted in your very good statistics. I guess I would submit that we are not moving to a policeman model, but buttressing the internal responsibility system through this legislation.

Mr Napier: I cannot argue with you.

Miss Martel: Just before I start my line of questioning, I was watching with interest the claims around workers' compensation and I hope that your situation is not like some I hear of at Inco every now and then; that is, they bring the workers to sit in the dry or the lunchroom or whatever when they really should be off at home, but in that way they can cover the fact; it is not lost time and therefore reduces the premiums. I hope that is not what you were talking about when you said you bring the workers in.

Mr Napier: You are insinuating something and I would like to address that.

Miss Martel: I am. I have seen that happen at Inco.

Mr Napier: That is fine. I cannot speak for Inco. I am sure they will be able to speak for themselves. What I would have to say is that as far as we are concerned, with a man or lady who does come back to work after an injury, the rehabilitation is much faster than if they stay home and do not get that type of comradeship they have.

I would be wrong in saying that completely, that someone does not sit in the dry all day. I hope not, but I am not at the mines all the time and I would be wrong. We believe that if a person has that type of an injury, that he cannot do anything, he should be at home and I have no problem with that.

1140

Miss Martel: All right. I want to go back to the statistics again, because I was advised earlier this morning that Leo Gerard and the vice-president of Rio Algom some time ago made a joint presentation regarding the decrease in injuries and accidents in the mining sector in particular. I am advised further that the basis of the presentation was that in fact great credit was given to the worker reps for having brought about that kind of change, and that both Leo and the vice-president agreed.

It seems to me that the worker reps who are already in place in your industry and in Rio Algom in particular would therefore become the ideal certified worker reps as envisioned in this bill. We have no indication of abuse. We have people who have an intimate knowledge of the workplace and I cannot understand why those people would not become ideal certified reps and fit the role as they do already now at Rio Algom.

Mr Napier: I am not quite sure if I can answer the question but I will try. I understand that what you are saying is that the worker inspectors, as we have them, would be good as certified persons. We believe they do not need to be certified because they are there now, but we believe very strongly that it still has to be the worker who has to address this problem, look at the condition and if he or she cannot do something about it, then to stop work, get in contact with the supervisor and make sure it is rectified before the work is started again.

It is that simple. I guess I am simple. I do not know why we have the big problem that we have to have certified people doing it when every worker should have that right, and has the right to do it from my perception of the act.

Miss Martel: I agree that would be the perception. I guess I am concerned with some of the stories we have heard already about people being intimidated. You have mentioned as well that you may or may not have a problem with some supervisors.

Mr Napier: You are picking holes, but that is fine.

Miss Martel: That is what you said earlier and I am going back to what you said.

Mr Napier: That is fine, but I tried to be fair.

Miss Martel: I am trying to be fair as well. You have to admit that there may be a problem where a supervisor does not want that worker to stop working, because he does not believe the workplace is unsafe. That supervisor also has the right to order someone else to get on that unsafe piece of machinery under the present act. What I am saying is that when workers are put in that position and they have no alternative, why should they not have a certified rep who has the power to shut it down and make sure no one gets hurt?

Mr Napier: In mining, I do not know how he could get in contact with the certified rep in the first place. As you know—you are from a very good and big mining district—that just does not happen. It is just too big. It has to be the man at the face. It is just too big. The mine is too big. You cannot call a certified worker to shut it down; you must shut it down.

Miss Martel: What do the worker reps do now then at Rio Algom? What is their function?

Mr Napier: Their function is like a staff function. They inspect.

Interjection.

Mr Napier: I beg your pardon?

The Chair: Order, please. Go ahead, Mr Napier.

Mr Napier: A hassler in the audience.

They inspect. They attend safety meetings. They talk to people. They do about the same as what our safety supervisors do basically, and if they do come across a substandard condition then naturally they get it fixed up, but I would have to suggest that in a mine of about 150 workplaces it is very difficult for them to visit every workplace every day. In fact it is very difficult sometimes for them to visit once a month.

This is why I am saying as strongly as I can that it must be left—there should not be any question about who should shut down a workplace. There should not be any question at all. I should not leave it for my brother. I should be able to shut

that down myself so that it is corrected. I would suggest that if that particular supervisor I referred to, who sort of cannot fit into the round hole—it is addressed because these fellows are not—I do not know; the mining people must be different because they have substandard condition reports and they could put it in without even putting their name on and get action. They have incidents.

The Chair: We are nearly out of time.

Miss Martel: If I could just add one very quickly, do your worker representatives now, under their contract, not have the right to shut down unsafe work? Is that not a right that is already under the collective agreement?

Mr Napier: It is not under the contract but it is definitely a right. I do not know. It is not in the contract. It does not need to be. The union and we trust each other. What I am saying is that it is their right to do that. It is also my right if I go down underground and see something, and it is also anyone else's right.

The Chair: One final quick question from Mr Dietsch.

Mr Dietsch: I am curious. I want to follow up on the last question that was asked with respect to your saying that your right to refuse work is not in the contract.

Mr Napier: Not to my knowledge. No, it is not in the contract. It is a thing that is already there.

Mr Dietsch: So the Rio Algom job description for safety that spells out a number of areas you do not consider part of your contract.

Mr Napier: I was thinking of the agreement. What were you referring to, the collective bargaining agreement?

Miss Martel: I was under the impression that the collective agreement for Rio Algom allowed for worker representatives to be established, and second, allowed for them to shut down unsafe work.

Mr Napier: If they were allowed to be established, it was done between contract years, and naturally it is a thing that is there. Wayne, maybe you can help me there.

Mr Glibbery: Our collective agreement and job description says that the worker inspector has the right to discontinuance of work, to shut down a workplace.

Miss Martel: A workplace?

Mr Glibbery: A workplace.

Mr Napier: He says it has. Thanks, Wayne.

Mr Glibbery: All you have to do is refer to the Ontario Federation of Labour submission.

Mr Fleet: On a point of order, Mr Chairman.

The Chair: Order, please. Mr Fleet has a point he wants to raise.

Mr Dietsch: I am not done.

Mr Fleet: I do not want to cut off my colleague here but I would like to get this clarified.

The Chair: Can it wait until—

Mr Fleet: I would like to get this point clarified. Since we are now getting other presentations occurring at the same time, as I read the OFL material there is a reference to the representatives being created, but there is not a reference in that particular collective agreement to incorporating the provisions in the job description and—

The Chair: That is not a point of order.

Mr Fleet: I would ask that this witness be allowed to give the right information before he is asked to adopt something.

The Chair: Fine. That is not a point of order; it is seeking information. Mr Dietsch, do you wish to finish your questioning and then we must adjourn?

Mr Dietsch: That would be nice.

Mr Napier: I will send you an agreement.

Mr Dietsch: I guess I am concerned, and I am questioning you if you would listen to me.

Mr Napier: I am sorry.

Mr Dietsch: I guess I am a bit concerned about the terms of how you view the working of your agreement. I want to know from you what process you use in your particular workplace to shut down a work site.

Mr Napier: Basically anyone who is working there can shut it down. It is that simple. If there is a problem, if it is a ?loose problem—generally speaking 90 per cent of the problems are loose, a bad back or whatever—it is shut down. It is roped off sometimes. It is left there and then it is addressed.

Mr Dietsch: So the employee then shuts it down himself and then goes and finds a supervisor.

Mr Napier: Tells a supervisor, yes. He guards it until a supervisor comes.

Mr Dietsch: Do you have a process? That is just a past practice way of operating. It is not spelled out in your agreement.

Mr Napier: No, it is that process we have there. As far as I am concerned, it is an agreement. It is agreed to by the health and safety committee and the company.

The Chair: Thank you very much for your appearance before the committee.

Mr Napier: I will send you copies.

The Chair: If you would, we would appreciate that.

The committee adjourned at 1150.

AFTERNOON SITTING

The committee resumed at 1359 in the main conference room, Peter Piper Inn, Sudbury.

The Chair: The resources development committee will come to order as we continue our hearings on Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

I have a couple of words before we start because I know there are some people here now who were not here this morning. One of the requirements of hearings is that French translation be a fact at the hearings. Indeed, that is what we have been doing in designated areas. Today, however, the equipment was misdirected to some other place and did not arrive here. We went ahead and scheduled the hearings anyway. We are going to carry on. There are interpreters available if anyone requires that. We want to make sure that people can still make a presentation in the language of their choice.

We have allowed 30 minutes for each presentation and people can take the full 30 minutes themselves or they can split that up to allow an exchange with members of the committee, but in order to get through our hearings we are restricted to 30 minutes for each presentation. I emphasize once again that the people who are here making presentations are here at our invitation. We want them here. You may not agree with what any one of them might say, but I would urge you to have the decency to let them make their presentations without abuse from the audience. I will say it again: The privilege of abusing the people who make the presentations belongs to the committee members, not to the audience. I ask you to respect that.

Finally, if you wish to have interviews or conversations, would you do that out in the hall away from the open door. We had problems this morning with the committee members not being able to hear the presentations very well because of the noise, so I ask you to do that.

Without anything further I will introduce our first presentation this afternoon, which is from OPSEU, the Ontario Public Service Employees Union, Sudbury area council. Dennis Mailloux is here. Please introduce yourselves. The next 30 minutes are yours.

ONTARIO PUBLIC SERVICE
EMPLOYEES UNION,
SUDBURY AREA COUNCIL

Mr Mailloux: I am Dennis Mailloux. I am a health and safety representative for OPSEU,

Local 617, and I am also the president of the area council for OPSEU. I work as a correctional officer at the Sudbury Jail. One of the participants today is Nancy Dalton who is a female correctional officer from the Haileybury Jail. We also have Muriel Ethier, who is representing the Ontario hospital insurance plan's office in—

The Chair: I am sorry. Could you indicate who is who.

Mr Mailloux: Nancy Dalton, female correctional officer, is on my left. I have Muriel Ethier on my right and on her right is Gerry Regimbald from local 628, an air ambulance attendant. On his right is Bob DeMatteo, the co-ordinator for health and safety in OPSEU in Toronto. Behind him to my right is Mark Bender, who is an air ambulance attendant, and on his right is Robert Smith, who is also an air ambulance attendant. To my left and behind me are Laura Reed and Carol Degazio. They are from the OHIP office, as injured workers.

I am here along with my colleagues to tell you of our concerns about Bill 208. It does not address the health and safety problems we face within our workplaces. We see many of the provisions and the recommended changes of the Minister of Labour as a step backwards. We would like to illustrate this by looking at some of the problems we face in our jobs as emergency care, correctional services and OHIP office workers.

Mr Regimbald: My name is Gerry Regimbald. I am an air ambulance officer working out of Sudbury. We provide primary medical care and this care often entails being dropped off at some remote or inaccessible emergency site. We face a host of hazards and risks that are not being properly managed by our employer. This is due to some basic problems in the legislation.

Within the past year and a half, two of our fellow air ambulance officers were killed in an air crash in Chapleau. Another officer was killed more recently in a crash off Pelee Island. In both cases patients were also killed.

In our service we sometimes use single-engine helicopters with one pilot. If that engine goes or the pilot gets seriously ill, we are goners. This aircraft is also too small for two officers and a patient. That makes it difficult to provide proper care to patients safely.

According to the air ambulance user guide, all aircraft utilized by the Ministry of Health should

have two pilots and two engines, but they do not. On some occasions we are also forced to fly with private carriers. These fixed-wing planes, like the one involved in the Pelee Island crash, are not properly equipped for air medical service. When we fly these, we are not allowed to do our usual walk around safety check.

Many of these planes do not even have flotation devices for air emergency. In fact, there have been several documented cases in which these planes crashed with hospital staff and patients on board. We are afraid that the same thing will happen to us.

We also encounter staffing problems, which lead to the dispatching of one officer instead of the usual two on emergency calls. This is particularly dangerous when only one officer is dropped in swampy or rugged terrain. If you are in trouble or injured, you could lose your life. If you have a particularly difficult patient, there is no one there to help. This staff practice, by the way, is prohibited by regulations 57 and 58 of the Ambulance Act, which requires two officers in ambulance vehicles.

When this practice was instituted last year without any consultation, one of our officers exercised what he thought was his right to refuse unsafe work under the act. This officer was threatened with immediate dismissal. The supervisor used the imminent jeopardy provision, but there was no imminent jeopardy. These threats are used throughout the provincial service to intimidate us and to make us work in unsafe conditions. Under these rules, no one ever is forced to investigate our concerns.

At the same time, we are compelled to work without proper safety equipment and without air emergency training and we, like all health care workers, still work without the protection of health and safety regulations, regulations which the Minister of Labour refused to enact because of the pressure from the Ministry of Health and the Ontario Hospital Association.

We seem to be blocked at every turn. We raise our concerns at joint committee meetings and get nowhere. We complain to inspectors and there is no regulation that they can apply. When we try to use our right of self-protection, the employer abuses us by using a weak health and safety law against us.

Mr Mailloux: As I said before, I am a correctional officer at the Sudbury Jail and right now we oversee anywhere from 100 to 150 inmates. The majority of these inmates are from out of town. They are transferred from down south, the Don jail, where it is overcrowded.

They are removed from psychiatric facilities due to their closings. So we receive more difficult inmates every day and a lot of them we do not know anything about. The situation is becoming very explosive and violent. Other officers are frequently threatened and/or assaulted.

There is an officer by the name of Dave Anderson who back in October 1988 had a work refusal and there was another officer, Claude St Jean, who was ordered to escort an inmate to hospital who had just had an epileptic seizure and was acting violently. This officer was not advised of the inmate's violent nature before he brought him to the hospital and he was not told that the inmate was not secured properly with handcuffs. In fact he had been informed that the inmate would be quite co-operative on the way to and at the hospital. At the hospital the inmate saw fit to beat Officer St Jean and other hospital staff with an intravenous stand. We had to call in the police to give us assistance.

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On 20 November last year Officer Dave Anderson was ordered to escort the same inmate to the hospital for the same reasons, following another seizure, at which time the inmate also had tried to strangle his cellmate. Despite the violent incident and the incidents that had happened at the hospital a month before, Dave Anderson was to escort the inmate without assistance.

He refused to escort the inmate alone. The employer then ordered another officer, Officer Leger, to escort the inmate alone also. He also refused to go unassisted. Then the employer ordered an untrained casual, an employee, to escort this inmate. He of course accepted, due to hopefully reinstating his contract. The employer eventually sent another backup officer to the hospital later. Officers Leger and Anderson were subsequently disciplined for insubordination.

We have here Nancy Dalton, who is a casual officer at Haileybury jail, who is going to tell you of an incident that happened there just this past August.

Ms Dalton: I am a casual officer at the Haileybury jail. On 30 August I was ordered to escort four inmates in the back of a Suburban, without backup. I refused to do this without another officer entering the rear of the vehicle with me. I was subsequently sent home without pay for refusing the direct order on the grounds that I felt it was a health and safety risk to each other inmate as well as to myself.

Further to that, my supervisor advised me that I get paid to take these risks and that I should be

following his orders. Before I left work that particular day, I was still downstairs in the building, making phone calls to the union to say: "How can they do this to me? Are there not health and safety provisions that can protect me in this situation?" The actual load that was to go out to Sudbury, the four inmates, was three male and one female being transferred. They split the load up. They just saw fit to change their mind. Maybe they saw the wrongness of their ways at that time.

They put three male inmates in the rear of one vehicle with two male officers in the front and they put a male and female escort on the female inmate. So in fact the trip never went down like it should have gone down. It was a clear message to me that there was a health and safety problem here and that management was taking unnecessary risks. I am not protected by the collective agreement or the Occupational Health and Safety Act to refuse work in this type of situation.

When I returned to work the next day my supervisor had my contract. I am a casual. I am on a contract and they can choose to renew it or not renew it. I was intimidated. My contract was rolled up and waved under my nose. I was advised and reminded that I was a casual and that my contract could be terminated on one week's notice. In other words, "Exercise your rights and this is what you are going to get."

I am not fully trained as a permanent correctional officer would be trained. They are in the process of an ongoing thing. Certainly the situation did not protect me as far as the health and safety of myself or the inmates were concerned.

Mr Mailloux: Here is another actual case that shows irresponsibility in management behaviour. It illustrates why the exemption of correctional officers from refusing unsafe work must be repealed. These problems and practices are raised at every joint committee meeting, but our employers refuse to address them. Bill 208 does not change this, even though it is necessary for our personal protection.

I will go to Muriel Ethier now for the OHIP workers.

Ms Ethier: My name is Muriel Ethier and I represent OPSEU workers who work in the Ministry of Health's OHIP operations throughout the province. I also have with me some of our members who have been made sick by conditions at their workplace. I am here to address the concerns of many thousands of office workers represented by OPSEU in Ontario.

We want to emphasize that office work can be hazardous and can cause serious injury and illness. Growing numbers of office workers are crammed into technological sweatshops. Inhumane quota systems, poorly designed equipment and electronic monitoring are creating many workplace illnesses. The most visible sign of this is the growing number of office workers who are suffering from debilitating repetitive strain injuries such as tendonitis or tenosynovitis.

Many of our OHIP workmates are data entry clerks. These people input data for the doctors' billing process. They key in the information under a keystroke quota system that is monitored by the computer. Every keystroke, every mistake, every break, even the bathroom breaks, are recorded. After several years of working this way many develop chronic pains in their hands, arms and shoulders. They find that they cannot keep up the pace. That is when the harassment begins and the injury gets worse. By this time it is too late. Permanent damage has been done and they may never be able to work with their hands again. They are disabled.

We have seen this dramatically in our own office in Sudbury where seven out of 11 OHIP data entry clerks were diagnosed with this illness. All of these people have been awarded workers' compensation for their injuries. On my left here is Laura Reed. She has been diagnosed and operated on for carpal tunnel syndrome.

This is not an isolated example. Our union's survey of all data entry clerks working in OHIP shows that 26 per cent of our clerks had been diagnosed by a physician as having developed similar injuries. This high rate of injuries was confirmed at three separate medical clinics where physicians objectively identified these conditions among 25 per cent to 30 per cent of clerks.

If this is not enough, we are plagued by severe indoor air pollution and overcrowding. Our OHIP office in Sudbury is a case in point. Several years ago our local filed a complaint with the Ministry of Labour because our employer refused to take our complaints about indoor air problems seriously. This led to a long, drawn-out investigation which produced little remedial action.

A follow-up study by the ministry hygienist showed that over 85 per cent of the people working in the building were suffering from some symptoms related to poor air quality. Over one third of these employees had been absent from work as a result of the health problems that were caused and aggravated by the air quality

problems and more than 76 per cent of these people were being treated by a doctor.

The ministry was still not prepared to order any action. A subsequent clinical assessment of our members by an independent physician confirmed these ailments as building-related, yet the ministry is not yet convinced that legal action is warranted. They say no standards have been violated, but my members are still getting sick.

In 1989 over 50 lost-time illness claims were filed with the Workers' Compensation Board. I have to my extreme left Carol Degazio who is suffering from sick building syndrome. Also, last year one member in the building fell unconscious when he was overcome by fumes generated by smouldering light ballasts in his work area.

The Ellen Fairclough building, which houses the Ministry of Health's OHIP operation in Hamilton, is another illustration. Seven years ago the union local also filed complaints with the Ministry of Labour about poor indoor air quality because our employer refused to take this problem seriously. They did not have a joint health and safety committee and were getting a continual runaround. Our employer treated the problem as a hysterical women's syndrome, but this was not borne out by what the Ministry of Labour found. Our members were being made sick because the air was contaminated with carbon dioxide and a host of chemicals including formaldehyde.

The Ministry of Labour assessment also found that their workstation arrangements were unsatisfactory, but the Ministry of Labour refused to do anything about this because the contaminants did not exceed its guidelines. There are no regulations for workstation arrangements or work practices. They were told the right to refuse would just not apply to these hazards. This was in spite of the fact that close to 63 per cent of our members were developing some form of respiratory problems from breathing this bad air.

It has taken six years to get remedial action from the employer. This came about as a result of a settlement of a grievance filed in 1984 on this problem. The employer is now renovating the ventilation system after a consultant's study found that the system was unable to bring in fresh air during the winter. The consultant confirmed the union's original complaint, a complaint that neither the Ministry of Labour nor the employer would take seriously. We are glad that something is being done now, but think of all the people who were made sick in the meantime.

We are very angry about all this damage that was inflicted on people, but we are outraged by the fact that all this was preventable, had our safety laws provided real protection.

Bill 208 does not take us forward in health and safety. It does not address the problems in current legislation. It seems to make the problem worse.

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Right to refuse dangerous work: Correction officers are denied the right to refuse entirely, and health care workers are restricted from using it when others might be placed in imminent jeopardy. Bill 208 does not change this, even though it is necessary for our personal protection. Experience shows that these restrictions and exemptions have only reinforced the employer's view that the dangers in our work must be accepted without control. Employers are abusing these provisions, which must be repealed.

Bill 208 introduces an even worse provision. It provides that workers who refuse will be paid only during the employer's investigation. The pay stops if the worker rejects the employer's findings, continues to refuse and calls in an inspector. This cheats a worker out of having an independent investigation before returning to work. Workers must be paid during all stages of a work refusal.

Bill 208 allows an employer to assign refused work to another worker before the hazard has been removed. This practice must be prohibited.

In addition, we note that the Minister of Labour, Gerry Phillips, would further weaken the refusal provision. He insists that right-to-refuse activities be restricted to those activities that pose imminent jeopardy to workers. It would not apply to those activities that would cause long-term chronic illness, like repetitive strain injury.

This is a direct assault on many workers, including office workers, who suffer debilitating chronic illness because of poorly designed equipment and unrealistic work regimes. Is the ministry suggesting that we are just to grin and bear the pain and suffering imposed by its corporate friends?

Bill 208 will not help committees resolve issues. A 30-day response requirement to committee recommendations is not a tool that will encourage employers to resolve issues. Giving us more training will not give us the power to encourage the correction of hazards we have identified with our new-found knowledge. Worker members of joint committees must be given some mechanisms to solve these problems

quickly. They need the power to issue some form of provisional order.

Bill 208 gives the government some alarming powers to give exemptions from certain key provisions of the act. Joint committees, the right to be trained and certified and the right to shut down unsafe work can be taken away from a whole group of workers. The government can also regulate who a union selects as a member of a joint committee. This is a direct assault on the union's democratic process. These provisions in Bill 208 must be deleted.

Bill 208 does nothing to enhance the enforcement of the act and its regulations. Increasing the maximum fine to \$500,000 when the government is already reluctant to prosecute is pure window dressing. Inspectors need some clear legal obligations to enforce and the proper tools to sanction violators immediately. We are constantly frustrated by inspectors telling us that there are no regulations and there are no standards being violated, even though we are being made sick by our workplace. Inspectors need an expanded scope of enforcement that is not restricted by a narrow set of regulations.

The act requires a clear statement of purpose indicating that the act exists to protect workers and to promote the highest level of physical and mental wellbeing.

We sometimes find ourselves in a no-win situation with the Ministry of Labour. A few years ago we convinced our employer in Sudbury to address our concerns about video display terminal radiation through the internal responsibility system. Our employer agreed to experiment with shielding at the union's expense, but later reneged on this agreement on the advice of the Ministry of Labour radiation expert, who thought the testing was politically unwise. This official actually interfered with the internal responsibility system. If they did the tests, he reasoned, employees might believe there was really a problem.

We then appealed this decision under section 32 of the act. We appeared before the director of appeals, who was a lawyer employed by the ministry. She later became the director of legal services for the ministry. This is not an independent system of appeal, nor is it a system which provides enough expertise in occupational health to assess these hazards properly and to deal competently with contentious issues. We believe that the appeal director showed bias and did not have the scientific expertise to evaluate the scientific evidence that was presented.

Section 32 must be amended to provide a separate and independent appeal board.

Conclusion: Workplace illness and injuries have reached a disastrous level in Ontario. The hurt, sickness and deaths must be reduced. In its present form, Bill 208 will not accomplish this. We know by now that you have heard many objections from employers about giving workers a greater say, but remember that we, not the employers, are the people who endure the illness and the injury and death. We must have these rights of self-protection. It is a matter of our survival.

Thank you. As a byproduct, I would like to show you what we can generate in a safe office. I have here about 120 Workers' Compensation Board forms that have been filed on one floor—a safe office environment. Thank you.

The Chair: Thank you, Ms Ethier. That is the end of the presentation, is it?

Ms Ethier: Yes, the verbal part.

The Chair: Okay. Thank you very much. We do not have much time left because of the extensiveness of that brief, but Ms Marland, Mr McGuinty, Mr Wiseman and Mr Fleet are all on the list. Let's see what we can do. Keep that time problem in mind.

Mrs Marland: Your presentation is a very significant one, and I think it is also significant that we are talking as the employer, the Ontario government.

I am just wondering how you can tell me how Bill 208 could have been a solution. I think the example of the unsafe practices in terms of the air ambulance service, which puts everybody at risk, obviously, and defeats the purpose of trying to rescue somebody who is already in an emergency in terms of health care—if we do not have safety regulations for air ambulances, that is totally appalling. We—I am speaking, of course, for the Progressive Conservatives—questioned it in the House after the Timmins accident last year. If what you are saying is such a blatant violation of existing law—which, with the air ambulance, it is, and I would suggest it is with the correction officer too, because obviously what you saw following meant that you were right—the fact that you were on a contract would not mean that you should be intimidated.

What I really want to know is, how can more legislation help be a remedy if the existing legislation—which is there to protect you and, I would say, also the public—is not being enforced? I mean, why pile more laws on top of what we have if we do not get anywhere with what we have?

Mr DeMatteo: It is not a matter of piling more laws on top of laws. It is a matter of dealing with the flaws in the current legislation. That is what our brief is trying to address. If you take a look at the legislation which is the legal framework that we operate under right now, it is seriously flawed. One example: A large number of employees who do very dangerous work with inherent hazards in it do not have the right of self-protection, the right to refuse, for example. We think that is one flaw which has to be corrected immediately.

Mrs Marland: How do they not have the right to refuse? I just want to tell you that Toronto international airport is shut down right now. All the air traffic controllers have walked out of the tower there because there were fumes that they had been smelling all morning. They had the right to walk out. How is it that the right to refuse is not working?

Mr DeMatteo: The correctional officers, firefighters and police, for example, are exempted from the right to refuse under the safety legislation as it currently is penned. Health care workers such as air ambulance people are restricted in the use of the right to refuse where the practical effect of their refusing might place someone else in imminent jeopardy. So there are those two basic issues: an exemption, a denial of the right to refuse, and a restriction on the right to refuse for health care workers. What we are basically saying is that the employers are actually abusing those denials and not addressing the problems in the workplace and controlling the risks.

The Chair: I am sorry to be arbitrary, Mrs Marland, but if we want to give some other members a chance we must move on.

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Mr McGuinty: I find this presentation very, very fascinating. I am very impressed by what Dennis Mailloux said, and the gentleman Gerry Regimbald who spoke on behalf of the air traffic people.

Interjection: We can not hear you.

Mr McGuinty: I am sorry. I found the presentation very impressive, what was said by both our friend from correctional services and from the air ambulance service, and Dave Anderson.

But the thing that really hits me is what M^{me} ou Mlle Ethier—merci bien pour votre présentation—said. I find it unbelievable, but I do believe it because I know that you tell it the way it is, that we have, in OHIP operations, a work situation

wherein—and you describe it very vividly—people are crammed into technological sweatshops. It makes you think you are back in the Charles Dickens days, having the input data from doctors' billing process—and you know what that constitutes because doctors create a lot of billing—information-to-keystroke quota system monitored by the computer. Every stroke, every mistake and every break, even your bathroom breaks recorded? If you had diarrhoea, you could be fired.

Ms Ethier: But it could persuade the employer to ask you to bring in a letter stating that you have a medical problem that might take you away from your workstation more than normal.

Mr McGuinty: This is a bit of a side issue, but how long has this been going on? How long have you been expressing these concerns? Back to 1982?

Ms Ethier: I have been fighting this issue for almost 10 years, since they brought in the new computerized system.

Mr McGuinty: I am a bit embarrassed, I must say, that our government would presume to legislate for others and at the same time tolerate working conditions of the kind you outline. I find that just incredible and I thank you for your outline.

Mr DeMatteo: I would just like to mention that the employer has been aware of this situation well before 1982, because the compensation claims are coming in in droves. Two, the Ministry of Labour is aware of this. They did the workplace assessments which clearly found that these offices were unsatisfactory and the work regimens themselves were unsatisfactory, and nothing was ever done about this. That is what is really angering everybody.

The Chair: Mr Mackenzie, do you have one short question? I am sorry to be so brief with you, but I must.

Mr Mackenzie: I had a couple of questions, but I just hope that the brief you have has now convinced a couple of the government members that maybe they will support Bill 208, as is.

The Chair: Thank you for the brevity of the question. Ladies and gentlemen, our time is up, but thank you very much for a very comprehensive presentation. The committee does appreciate it.

The next presentation is from Inco Ltd. Order please, we are ready to proceed to the next presentation, and I would urge you once again to carry on your interviews and conversations out in the corridor. Thank you very much.

Mr Parker from Inco, we welcome you to the committee. If you would introduce your colleagues, we can proceed.

INCO LTD

Mr Parker: With me today I have the manager of safety, Dar Anderson, sitting next to me on my right. On his right we have Bill Elliot, the superintendent of occupational health.

I would briefly like to review for the committee who we are, in case you do not know who Inco is, our labour-management partnership for health and safety and our safety performance. In the Sudbury area, we have about 8,000 employees operating 10 mines, three concentrators, a smelter and three refineries. We also operate a refinery in Port Colborne. Our principle products are nickel, copper, cobalt and precious metals.

In 1975, Inco Ltd and the United Steelworkers of America, Local 6500, demonstrated a commitment to the internal responsibility system by agreeing to establish joint health and safety committees in the workplace. Currently, there are 33 such committees in operation in the Ontario division. Our joint history of involvement illustrates endorsement of the IRS principles espoused by both Ham and Burkett.

Since 1975, our medical aid frequency has been reduced by 60 per cent and our lost-time accident frequency has been reduced by 90 per cent. Clearly, this experience proves that adherence to the IRS principle advances worker protection. The Honourable Gerry Phillips, the Minister of Labour, has stated that Bill 208 is designed to improve the internal responsibility system where employees and employers work together to protect occupational health and safety. He states that Bill 208 will strengthen the labour-management partnership for ensuring health and safety at the workplace, ensure that both labour and management have the training and education necessary to give full effect to their health and safety efforts, provide greater authority for the new knowledge to be applied in the workplace so that the risk of accident and disease can be minimized.

Inco Ltd supports these objectives. We believe strongly in the internal responsibility system as a principle means of enhancing health and safety in the workplace. For over a decade now it has been effective in the development of a healthier and safer workplace for our employees. Our experience demonstrates that it works. While there is much of value in this bill, we believe that there are certain proposed amendments that could be counterproductive to a successful internal re-

sponsibility system, either impeding or failing to advance worker protection. I would now like Dar Anderson, the manager of safety and training, to briefly comment on some of the major amendments and recommend other changes to the Occupational Health and Safety Act.

Mr Chairman and members, we did not want to go through the legislation clause by clause. We are addressing what we feel are the major issues.

Mr Anderson: Good afternoon. First, I would like to comment on the certified worker and work stoppage. As Ham stated, both management and employees have inherent roles and responsibilities, some within a legal framework and some beyond. The integration of these roles and responsibilities into a system that achieves effective work performance and procedures and precludes occurrences that affect worker health and safety is the internal responsibility system. The assignment and integration of roles and responsibilities demands the co-operation of all involved parties, their participation, and certainly infers accountability.

Based on the above principles, in 1985 Inco Ltd and the United Steelworkers of America, Local 6500, introduced full-time worker safety representatives, not to be confused with the health and safety representatives required under the Ontario Occupational Health and Safety Act, section 7. Notwithstanding seniority agreements in the collective bargaining agreement, worker safety representatives are appointed, removed and replaced by the local union from among the employees in the locations where they work. At Inco Ltd, there are 13, including Port Colborne, such representatives.

Worker safety representatives receive training and on-the-job experience in relation to the internal responsibility system, the Neil George safety system, the standard St John Ambulance certificate, the safety and health committees, the Occupational Health and Safety Act, the Inco Ltd occupational exposure monitoring program and other such training as may be agreed upon.

The prime responsibility of worker safety representatives is to inspect, audit and address workplace conditions and work practices in relation to the safety and health of personnel in mines and plants. They also assist in the promotion and development of safety, health and environmental practices and procedures.

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Their duties and responsibilities include conducting safety and health inspections and investigations, monitoring conditions and practices and making recommendations to appropriate plant

supervision. They participate in the preparation of training materials and programs and in the promotion of those programs. The worker safety representative also serves as a joint chairman of the area health and safety committee in his or her respective location.

Our worker safety representatives are committed to the internal responsibility system and function as a part of it. We have found this arrangement works well at Inco Ltd. We wanted to share with the standing committee his example of how the internal responsibility system can function; however, we are not in a position to suggest that this would work in other companies or industrial sectors.

We do not believe that introduction of certified workers would enhance the IRS. On the contrary, granting unilateral power to a certified worker to direct an employer to stop work would seriously unbalance systems established under a successful IRS, since the basic principles of co-operation, participation and accountability would be rejected. We believe the introduction of certified workers will interfere with the IRS established at Inco Ltd by reducing the role of our worker safety representatives, thus diluting the importance of their duties and responsibilities.

The unilateral power to direct an employer to stop work outside of the IRS can result in individual workers unconsciously transferring their health and safety responsibilities and accountabilities to the certified workers. Under our IRS, we require each and every employer to be responsible and accountable for his or her actions, and our employees have responded well. We do not want this to change.

We also believe that bypassing IRS principles by mandating authority to a certified worker who has no accountability will nurture an adversarial environment by introducing conflict between management and workers where none legitimately exists.

In summary, Inco Ltd does not support the concept of certified worker and the unilateral power to direct an employer to stop work.

Now I would like to deal with work refusal. We agree with the minister that any worker or worker representative faced with a serious and life-threatening situation owes it to himself, his family, his co-workers and his employer to correct the situation and remove the risk by any means, including refusal to work. We expect nothing less of all our employees and will not condone any other response.

Inco supports the government's proposed change to Bill 208 which makes it clear that the

right to refuse an unsafe work activity is restricted to current danger, thereby excluding those activities or health concerns that might pose a risk in the longer term.

Inco supports each worker's right to refuse unsafe work. This is an implicit responsibility in a successful IRS as is the accountability for condoning any action or nonaction that may result in an accident.

The third item I would like to address is the Workplace Health and Safety Agency. The proposed agency, if adopted, will certainly alter the operation of safety associations in Ontario. Currently, much of the work in an association is conducted by volunteer effort. Legislation that prevents the current volunteer structure from functioning will not advance the efforts of safety associations.

The voting rights of the representatives of the board of directors of the agency must be included in the act rather than determined at a later date. We recommend that the representatives of labour have one vote and the representatives of management have one vote. This ensures voting balance for all meetings where there is a quorum, but uneven representation.

Inco endorses the proposed changes to the agency, that is, adding a full-time neutral chair and adding representatives of the health and safety profession to the board of directors and creating a small business advisory committee.

The mining industry in the province has demonstrated a leadership role in provincial health and safety activities. Our performance, evidenced by the dramatic reduction of employee injuries, supports this. We recommend that the board of directors include an employer representative from the mining industry.

The proposed legislation provides a maximum annual increase in funding of 10 per cent. Instead of a maximum of 10 per cent, this should be capped at the annual inflation rate.

With respect to enforcement, we understand the need for an inspector to have seizure powers for documents and things; however, we are surprised at the broad nature of this regulation. It is also surprising that in the minister's statements there was no reference or support for health and safety audits of any kind.

Internal health and safety audits are being used more and more by management to determine compliance with regulatory requirements and company policy. Unfortunately, audits may occasionally contain evidence of noncompliance. If audits are not afforded some protection

under the act, then we must seriously reconsider their use.

We recommend that the minister support the use of audits, and in doing so place limitations on document seizure similar to that afforded by the Canadian Environmental Protection Act enforcement and compliance policy.

When an inspector issues an order to stop work, the bill requires that both an employer or constructor and the committee member representing workers must advise the inspector that the order has been complied with before resumption of work. As stated previously, Inco supports the internal responsibility system which functions on the principles of assigned responsibilities, participation and co-operation. The ministry should be called only when the workplace partners cannot work out problems.

For the same reasons, we believe that it should not be necessary for both workplace partners to submit to the ministry a notice of compliance to an order by an inspector.

The fifth subject I wish to discuss involves the joint health and safety committees. All non-unionized employees within Inco's Ontario division are generally deemed to be management. Supervision resolve problems as they arise and this has worked satisfactorily for more than 60 years. We see no need to have committees or worker representatives in our nonunionized office buildings and facilities.

We believe that nonunionized worker members of any committee should be selected from the workers in the workplace. Where workers are unionized, the worker members should be appointed by the union but not be permitted to hold any union office. Burkett recommended "that membership on joint health and safety committees be restricted to workers not holding other union positions...and not be permitted to engage in partisan union political activities."

Bill 208 entitles health and safety representatives and joint health and safety committees to obtain all safety and health information in the employer's possession. In addition, they have the right to be consulted on proposed testing and be present at the beginning of any such testing where the health and safety of a worker may be affected. We recognize the need to consult and to provide information and have always done so. However, the language in these sections is far too broad.

For example, each year Inco Ltd conducts over 4,500 measurements of workroom and employee exposures to dust, gas and noise. We conduct about 30,000 tests for carbon monoxide and a

similar number of tests for nitrogen dioxide on diesel engine exhaust annually. All of these activities include a consideration of occupational health and safety.

If the committee or worker safety representatives request that they be present as they would be entitled to, we could not comply. In addition, in situations where an employer must respond quickly to a worker complaint or in an emergency situation, a requirement having to consult and provide information before testing severely restricts an employer's response time.

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Worker representatives and committees should know how testing is done, be entitled to observe an example test, be consulted regarding planned periodic testing and have access to test results. They should be able to question the results of our tests as they do now, bring their concerns to the committee and, if unresolved, contact the Ministry of Labour inspector.

The scope of the proposed legislation includes "tests of any equipment...for the purpose of occupational health and safety." This is far too broad for us to hope of compliance. Furthermore, since competent personnel, both management and workers, carry out these tests, the need to attend at the beginning of tests is an inefficient use of manpower.

Bill 208 requires a worker trade committee to be established under the joint committee at a project expected to last more than six months. This may be appropriate for general contractors; however, companies with established committees and procedures carrying out their own projects must be exempted from establishing trade committees.

Just a word about architects and engineers, who are sworn to comply with their respective acts of 1984. Professionals such as architects and engineers can certify design specifications; however, they cannot be held accountable for how equipment and devices are operated or maintained.

With respect to medical surveillance, the proposed legislation repeals clause 17(1)(e) of the act, which enables the Ministry of Labour to require workers to participate in medical examinations, tests and X-rays. The minister must reconsider his position that participation of workers is voluntary.

Removal of this section means crane and hoist operators in our industry are not required to undergo annual medical examinations. Considering the safety of our employees, including those working in adjacent areas, we cannot

accept voluntary participation. This is a step backwards in the protection of our employees.

We also believe there may be future situations where the minister may want to mandate medical surveillance and tests such as audiometric testing.

Inco Ltd supports the need for a written health and safety policy. The mere existence of a written policy is the first step in creating an awareness of health and safety. By its nature it underscores the commitment and responsibility of workplace partners to strive to protect the health and safety of workers.

We have heard the minister praise some of the programs of larger companies while stating that the real health and safety issues exist in smaller companies. Yet to our surprise and dismay, he proposes to exempt the smaller companies from the requirement for a written health and safety program. We do not support the minister's proposal.

With respect to other recommended changes to the Occupational Health and Safety Act, the internal responsibility system requires that all workplace parties be held accountable for their actions in the workplace. Situations have arisen in the application of the sections of the act that specify the duties of employers and supervisors which place undue onus on employers and supervisors.

While fail-safe design attempts to eliminate any possible incident which may endanger the safety of a worker, workers should continue to be accountable for those things about which they are knowledgeable or over which they have some control, as set out in the section of the act that specifies the duties of workers.

The Ministry of Labour is using the present wording in hindsight in issuing orders, laying charges and administering the act. Only employers and supervisors are being charged in incidents when workers contributed to the cause of the accident.

Accordingly, it is our recommendation that the act be amended so that employers and supervisors are required to take such precautions for the protection of a worker that are reasonable, based on information they have at the time.

Mr Parker: I would like to conclude with a summary of our recommendations. In general, we support the objectives of Bill 208, but we are concerned that the proposed legislation does not provide necessarily the best way to achieve these goals.

The introduction of certified workers into the workplaces will damage the internal responsibili-

ty system. The entitlement granted to health and safety committee members to be consulted and to be present at tests of all kinds is unreasonable and impossible to comply with. Repealing present legislation which requires workers to participate in medical examinations is a regressive step in protecting the health and safety of our workers.

Consequently, we recommend to the committee and to the government of Ontario that:

1. The requirement for certified workers with unilateral power to direct an employer to stop work be withdrawn from Bill 208. However, within the internal responsibility system as established at Inco Ltd, we will continue to expect our worker safety representative, when faced with a serious or life-threatening situation, to take immediate action to remove the risk by any means including stopping work. This does not include those activities or health concerns that might pose a health risk in the longer term. The reason for that is that many of these have to be explored and developed and there has to be some research. It is almost impossible to comply with a stop-work order on a long-term risk.

2. The board of directors of the agency include an employer representative from the mining industry. We feel that the mining industry has a very large stake in the health and safety of this province and we would like to be represented.

3. The powers of the health and safety committee members to obtain information, to be consulted and to participate in workplace testing be reasonable so that they can be complied with. We have no objection to their participating in the results of the test work or in examining how the testing is being done, but to be present at every single test when you have 40,000 or 50,000 tests going on is just unreasonable.

4. The requirement for committees or worker representatives in nonunion office buildings at or removed from plant sites be withdrawn from Bill 208. We have a good working relationship with our staff people, we have an open-door policy and we do not see any need for them to have formal committees.

5. The requirement for trade committees be restricted to projects involving a variety of tradesmen.

6. The language identifying duties of architects and engineers be revised to exclude accountability for how equipment and devices are operated or maintained.

7. The internal health and safety audits be afforded protection under the act similar to that afforded by the Canadian Environmental Protection Act.

8. The requirement for both workplace partners to independently advise inspectors of compliance to an order be withdrawn. We would rather see the workplace partners solve it on their own. This can be done. We have proved that it has been done and it will be done.

9. The repeal of present legislation which requires workers to participate in medical examinations be rescinded. In our operations, we have crane men who operate hot metal cranes and we have hoist men who operate mine hoists, and it is very necessary that they be examined on a regular basis to see that they are physically able to do those jobs because they could endanger the lives of other workers.

10. The written health and safety program be required for all employers.

11. The legislation defining the duties of employers and supervisors be amended so that they are required to take such precautions for the protection of a worker that are reasonable, based on the information they have at that time. I think this is a very necessary change that is required in the legislation.

We at Inco have experienced some unfortunate experiences with respect to this regulation where workers are involved as well as supervisors and the only people who have been charged are the supervisors and the company. It puts the supervisors under a great deal of strain. In fact we have had some supervisors who just have not returned to work because of the strain of being charged. The incidents involved are a long chain of circumstances, and yet the supervisor has been held totally accountable.

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We ask the committee to carefully review the positions we have taken and to recommend appropriate changes in the legislation.

In addition to the copies of this presentation, we have provided copies of our Ontario division's safety, health and loss control program and our jointly developed training manual for members of our occupational safety, health and environmental committees.

One of the significant initiatives undertaken in 1989 was the development of a videotape in co-operation with Local 6500, which was designed to help the viewer understand the principles of the internal responsibility system. This tape was produced by a special joint committee and was shown to our employees during May of last year. A copy of this tape has been provided for your information.

The final page of our brief is an indication of how the medical aids and lost-time accidents

have been decreasing since 1975 when the first safety and health committees were formed. We are prepared to try to answer any of your questions.

The Chair: Mr Parker, I wish very much there was time to do that, but the committee collectively made a hard and fast decision that 30 minutes was to be the limit on all the presentations, so we must stick to that, but thank you very much for a very comprehensive presentation.

The next presentation is from the United Steelworkers of America, Local 6500, and I see Mr McGraw making his way to the table.

Mr McGraw: I would like to know, who set this up that we go right after Inco?

The Chair: We do have a sense of drama, you know. Gentlemen, we welcome you to the committee this afternoon. As you know, there are 30 minutes for each presentation, to include an exchange with members of the committee if there is time. Dave Campbell is here, president of the local. Mr Campbell, did you wish to lead off?

UNITED STEELWORKERS OF AMERICA, LOCAL 6500

Mr Campbell: Yes. With me is Don McGraw, chairman of our safety and health committee, and Julien Dionne, who is co-chairman of the mining section. I have a short presentation at the beginning and I will be handing it over to Don. I just could not help but note in the comments of the previous speakers that our worker safety representatives—it is fine if they save me from a fall of ground that is going to kill me, but if there is arsenic in the air that is going to slowly put me away they cannot do anything about it. We think that is little bit ridiculous.

Local 6500 represents approximately 6,300 union workers in the Sudbury area. We are also known as the largest mining local in Canada. Our figures show 32 joint health and safety committees—there are in fact 33; there is a question if one is exactly the same as the other 32, but we would agree with the company's 33; it is an interesting situation—with a total of approximately 400 active health and safety committee members. We have also negotiated 12 full-time worker safety representatives and our committees, like our worker safety representatives, were negotiated before they were legislated and we think that is very important to note.

This health and safety structure is overseen by the health and safety executive comprising the full-time chairman, two co-chairmen—Julien from mining and we have one other from

surface—and a recording secretary. It also should be noted that the constitution of the United Steelworkers of America is that every local union must have a safety and health committee.

The local's experience with the Ministry of Labour goes back many years. We have had one of our members on the Burkett commission. We have also been a major contributor to the training modules prepared by the mining health and safety branch. We presently have one of our members representing us on the mining tripartite committee on underground hardrock mining training, and a member on the Mining Legislative Review Committee.

I am going to hand it over and hopefully you will take into careful consideration the rest of the brief, as it represents many, many years of experience and negotiations and all that goes with our union. You heard Inco, how good we are, and we agree with them.

Mr McGraw: We thank you for the opportunity to voice our concerns regarding Bill 208. We are, however, somewhat sceptical what this committee is going to accomplish. Our local union has made numerous presentations to government committees and commissions regarding the safety of Ontario workers. However, the benefits derived from these committee hearings fall far short of workers' expectations.

Examples of this would be the hearings held regarding the legislative changes in the Workers' Compensation Act, Bill 162, and the 87 recommendations handed in by the Minna-Majesky task force. There have been numerous recommendations made by these various groups; the problem has always been implementation of these recommendations.

Elie Martel's task forces, namely, Not Yet Healthy, Not Yet Safe, as well as Still Not Healthy, Still Not Safe, identified most if not all of labour's concerns regarding the Occupational Health and Safety Act. The action of the task force resulted in Elie Martel introducing a private member's bill which would also have alleviated many of our workers' concerns.

A past Minister of Labour, Bill Wrye, proposed changes to the Occupational Health and Safety Act after Elie's bill, obviously very concerned about workers. He suggested that workers should be paid 75 per cent of their applicable hourly rate when refusing unsafe work. Here is a real incentive to exercise this right, a right which all workers in Ontario should have.

We are now at the point where the last Minister of Labour, Greg Sorbara, made a commitment to

the workers of Ontario and now our responsible government is renegeing on that commitment.

The workers in this province are not stupid. They knew exactly what the government was up to when we got a new Minister of Labour. It was very obvious that there were changes coming to Bill 208. The present Minister of Labour, Gerry Phillips, is proposing to further water down what we thought was a commitment by the previous Minister of Labour. While all of these ministers, task forces and commissions are touring Ontario, our workers are dying at a rate not acceptable to Local 6500. To lose one worker is one too many and Ontario has lost 293 in 1989 while the government was procrastinating.

Some big companies complained when the workers were first given the right to refuse, suggesting that the workers were going to shut down the mines and factories. The experience has shown, however, that this right has been used responsibly. We would refer you to our appendix II(B) to give you examples of what has transpired at Inco. If anything, the right to refuse unsafe work has not been utilized enough to save the lives of the 293 workers already killed in Ontario in 1989. The reason for this is simple: the employers have not trained their workers to the point where they can adequately protect themselves using this right. Unions have, with limited resources, managed to train the workers they represent in various aspects of occupational health and safety.

The Workers' Health and Safety Centre has done a lot to fill this gap left by inadequate legislation. From the past Wintario grants to the limited funding in comparison to the employers' safety associations, this centre has trained approximately 30,000 workers and management in level 1 training programs. Unions took the lead when it came to workplace hazardous materials information system training, which generated untold numbers of instructors and trained workers. Again, the major driving force came from the ranks of workers, their unions and the Workers' Health and Safety Centre.

Now I would like to touch on the Workplace Health and Safety Agency. Because of the success we have had with the implementation of our joint health and safety committees, coupled with the achievement of the Mining Legislative Review Committee, we find it very hard to accept the Minister of Labour's position that bipartite committees cannot work. It is in this light that we do not see the need for a third party involved in what seems to be something that

works. If it isn't broken, don't fix it; if it works, build more like it.

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Negotiating health and safety: there are some overall moral issues that should be mentioned in a gathering such as this. Workers find themselves negotiating for their health and safety in a formalized fashion that comes every three years in our local, as well as less formally by the joint health and safety committee members. Are we not all made of flesh and blood, and are we not all responsible for one another? If this is true, why does the responsible government of Ontario even argue on legislation that would save lives?

We used to have so many fatalities in the Steelworkers' union that we had to negotiate an inquest committee. Local 6500 is one of those locals in this situation. Imagine having the number of fatalities to justify negotiating these committees. Had the proper enforced legislation been in place we would not have had to take this course of action years ago.

Now I would like to pass it on to Julien Dionne, the co-chairman, to continue.

Mr Dionne: Inquests and training recommendations: Local 6500's inquest committee by far has represented the majority of steelworkers and victims' families at inquests in Ontario. It is indeed a dubious honour to make that particular claim to fame.

In most, if not all of the inquests that Local 6500 has presented, the most commonly made recommendation is that of training. Inquest jury recommendations can be found in appendix III. The juries normally fail to identify what the training should be composed of, as well as who the instructors should be. Those are the same kinds of omissions that appear in Bill 208.

This local proudly stands behind the training it has done for the hourly rated employees at Inco, as well as that now being given to the supervisors in this company. I found it quite interesting this morning when the presentation was given by Falconbridge suggesting that workers would not know what the hazards are in the workplace and perhaps a supervisor was more qualified to know. Strangely enough, at Inco the union is training some of the supervisors. So you want to give that some thought.

This union, as well as this local have proven to both workers and management that we can deliver quality education which is palatable to everyone. As well, Inco gave you a training manual that we use to train our joint health and safety committees. It is written by two people; I

am one of the co-authors, should you have any questions on it.

The only thing required from the government is legislation that would call for mandatory training in occupational safety delivered by the union trainers we are speaking of. The Ministry of Labour inspectors have been trained in their own designated substance programs by the same quality worker-trainers we speak of here.

This is Don's area of specialty, the worker representatives. I will turn it back over to him.

Mr McGraw: Worker safety representatives: the worker safety representatives who have been negotiated by Local 6500 are probably very similar to the certified members who are referred to in Bill 208. Since these members have been in place a very significant decrease in lost-time accidents has taken place. You can look at appendix II. Graham Ross, the past manager of safety for Inco and president of the Mines Accident Prevention Association of Ontario, has often praised the efforts of these worker safety representatives.

This being the case, one cannot help but wonder why the government should be fearful of introducing legislation causing certified members to be in all workplaces. These success stories should and could be echoed from all Ontario workplaces if the legislation supports the concept.

In Local 6500 the worker safety representatives have the right to shut down unsafe workplaces. This right was not achieved through formal contract negotiations, but rather the employer, after credibility was established between both parties—I emphasize both parties—gave this right to our worker safety representatives.

Inco realized the value of the worker safety representative, or certified member. There is no record of abuse regarding this power. In Elliot Lake, where full-time safety representatives have been in place for a long time, the same kind of track record is observed.

The Mining Legislative Review Committee, in which Local 6500 as well as management has representation, is presently considering legislating these union-appointed safety representatives for the mining sector. All workers in Ontario should receive the same representation as the bipartite Mining Legislative Review Committee is working towards.

Before concluding this part of our presentation we would like to highlight a few more inconsistencies in the Occupational Health and Safety Act and the current enforcement mechanism.

This legislation is not consistent in that it allows an employer, contractor and supervisor a defence for violating certain parts of the Occupational Health and Safety Act. Subsection 37(2) does not afford the same opportunity to the workers.

This legislation is not consistent in that clause 17(1)(a) says that workers must "work in compliance with the provisions of this act and the regulations." The same is not written for contractors, employers or supervisors.

This legislation is more favourable to provincial animals than to the workers of Ontario. This must be, since there are more game wardens looking after our wildlife than there are looking after the health of humans. There is something drastically wrong with our social values and/or morals.

Now I would like to pass it back to Julien Dionne.

Mr Dionne: Though the rate of occupational accidents is rising at an alarming rate, there does not seem to be much commitment by this government to rectify this carnage of workers. As bad as this situation may be, there is still virtually no consideration of industrial disease. Though the legislation is called the Occupational Health and Safety Act—I emphasize "health"—I challenge this committee to find all the references to health in this law.

Workplace accidents are traumatic; diseases are nontraumatic but just as deadly. Unfortunately our focus seems to be restricted to accidents. The fact that chemicals, including carcinogens, do not have to be pretested prior to being introduced in the workplace is testament to this statement.

Mr McGraw: We would like to conclude by reiterating that we support in principle Bill 208 proposed by Greg Sorbara, even with its numerous shortcomings. In the same breath we would also like to repeat that this last Bill 208 proposed is a watered-down version of the original. Health and safety is not an issue that should be negotiated every contract and is as important to management as it is for the workers. Ontario has all the resources to make our occupational health and safety legislation the best in the world. The only item missing is the political will.

We would like to thank this committee for giving us the opportunity to voice our concerns and also urge the committee members to consider our proposals.

The following parts of our brief contain the following appendices, which we explained

earlier: the legislative shortcomings that we feel, statistics and inquest jury recommendations.

The Chair: Thank you, Don. A number of members have indicated an interest. Shelley Martel is first.

Miss Martel: I want to go back to this question of the worker representative versus the certified worker. You were here for Rio Algom's presentation as well, so you heard that discussion. I cannot figure out the contradiction. In both cases you have companies where you have worker reps who are part of the joint health and safety committee. In Inco's case they are the chairmen of their particular committees. They have been extensively trained in health and safety. They are extensively trained in site-specific health and safety. It would seem logical to me that those people would become the certified reps under this bill and work along normally as they already have. I cannot see what the problem is or why the companies are trying to make that distinction between the certified rep and the worker reps now presently in place.

Mr McGraw: I do not see any real difference. I think the worker safety reps we have are the same as what is proposed in the bill as far as a certified member is concerned. If you ask Inco, I think it feels if there is a certified member, and if you ask Inco who it is going to lobby to appoint as that certified member, it is going to be our worker safety reps. I do not think it is anybody different.

Miss Martel: Do you see that there is any increased power? Right now—Inco admitted this in its brief—if workers were in imminent danger, then they would expect their worker rep to shut down that unsafe work. It seems to me that is the same type of thing we are looking for in a certified rep.

Mr McGraw: I think it is. We have had worker safety reps since 1985. They have that power even though it is not a negotiated power or a power that was given to them by law. They have that power that was given to them after credibility was established. I do not think at Inco or in Local 6500 it would make any difference.

Miss Martel: So you do not see it as a threat to the internal responsibility system or changing anything really.

Mr McGraw: No. I think if you look at that video Inco presented on the internal responsibility system, I guess that is the one part we can agree to. We do support the internal responsibility system. We were involved in the making of that video; both Dave and I were involved. We are not trying to destroy the internal responsibility

ty system; we just believe that there are laws required to stop killing workers in Ontario.

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Mr Dietsch: Can you tell me how many work refusals you have experienced on your work sites? Is that in the back of your brief?

Mr McGraw: Yes, it is in appendix II. I cannot remember which one now.

Mr Campbell: Page 51 at the back.

Mr McGraw: No, it is 51 in yours.

Mr Campbell: Oh, that is a new one?

Mr Dietsch: There is no page 51.

Mr Campbell: I am sorry; I have the old book.

Mr McGraw: It is appendix II(B). If you look at Inco—all our work refusals at Inco are reported to the Ministry of Labour here in Sudbury, the mining branch—in 1979 we had two work refusals; in 1980 we had 15; in 1981, 19; in 1982, five; in 1983, three; in 1984, four; in 1985, 14; in 1986, nine; in 1987, 12; in 1988, three; in 1989, seven. I do not think that shut any of Inco's plants down.

Mr Dietsch: You must have guessed what my next question was going to be. That was it in fact. Have any of those particular work refusals shut down any portion of their plant?

Mr McGraw: No.

Mr Dietsch: Have they been isolated work refusals?

Mr McGraw: Most of them are isolated work. You have to understand that being in the mining industry a lot of it is restricted to a certain area underground or whatever. But I think all of Ontario shows that work refusals have not shut very many companies down. I think free trade has shut a lot more companies than any work refusal has.

Mr Dietsch: You are probably right. You will not find me disagreeing.

Mr McGraw: That is why I said it.

Mr Mackenzie: I just want to stay with that particular issue for a minute. The refusals that have existed would not be classified as frivolous or a misuse of the right to refuse, then.

Mr McGraw: As far as my knowledge is concerned—I have only been the chairman for two and a half years; I was a co-chairman before—we have not had any work refusals at Inco out of that group that were classified by anyone as frivolous. We may not have agreed completely on the end result, but they were all resolved.

Mr Mackenzie: The same thing applied at Stelco, where the president of the company also said that they had no frivolous misuse of the right to refuse. Is that part of the credibility that your safety reps have and why you have been able to win what you have won in terms of your authority at Inco?

Mr Dionne: There are a lot of questions about credibility here, and I do not think that there is any argument anywhere about who is most credible. I think if you look at the amount of Ministry of Labour orders issued to employers, supervisors and workers, you will find that the employers have received many more orders than workers have; I would say in our industry perhaps 100 to one. So when we are talking about credibility, I think it is very obvious, through the ministry's own orders, who is most credible. The workers are, certainly.

Mr Mackenzie: Which raises serious questions as to the constant argument we are getting about the right to refuse in this particular bill being a danger. That seems to have come from every management group we have talked to.

Mr Campbell: Perhaps I can answer partly with one interesting comment that I would like to relate to Inco's presentation, where they said that the nonunion workers were considered as staff and they did not have a problem.

In my office as president—Don may have received a few calls on his own—more often than I care to think of I receive phone calls from staff asking the questions: "Can I? Is this safe? What can I do?" When I explain, they say, "Well, I won't be here tomorrow." A number of times they even call not giving their names, but indicating that they work either for a contractor on Inco's property, nonunion and/or staff person, not necessarily a supervisor with the right to hire and fire, but maybe somebody in the office, a secretary, someone working in accounting.

I would hazard to think that if you are going to legislate, it would be a terrible thing not to include all people who work in Inco's plants, not just those fortunate enough to be members of Local 6500.

The Chair: Mr Campbell, as president of your union, we would like to thank you and Mr McGraw and Mr Dionne for putting together what is obviously a very thoughtful brief. A lot of work went into it. We thank you very much for your presentation this afternoon.

The next presentation is from Denison Mines Ltd. Is Mr Moreau here? We welcome you to the committee.

Order, please. Would people go out into the hall for their private conversations or interviews?

Mr Moreau, we welcome you to the committee this afternoon. The next 30 minutes are yours.

DENISON MINES LTD

Mr Moreau: Thank you very much. Our brief is going to be fairly concise. We will not need the full 30 minutes. That should leave ample time to answer questions. For those of the committee who are not aware of what Denison Mines is, we are an underground mining facility. We mine uranium in Elliot Lake. We have 1,600 employees and we are a fully unionized company.

Ladies and gentlemen of the standing committee, Denison Mines Ltd appreciates this opportunity to submit our comments on the bill. This presentation will deal with the changes to the Occupational Health and Safety Act, as proposed in 1989 by the then Minister of Labour, Gregory Sorbara, and supported by the Honourable Gerry Phillips, Minister of Labour.

We at Denison Mines Ltd in Elliot Lake have worked jointly with our local unions over the past decade to improve health and safety in the workplace for the purpose of eliminating personal injury. It is required that both sides come to grips with the foundations of the internal responsibility system, which are mutual trust, respect and the acceptance of joint responsibility. This was difficult and over time has developed to the point where a meaningful and productive relationship exists that is of benefit to the worker, the employer and the community.

We recognized the benefits of placing more authority and greater control in the hands of those closer to the workplace when we established employee health and safety committees in our mines in 1976 and provided training to these committees that would establish the internal responsibility system as the only acceptable way to address and resolve issues of health and safety on the job. This was a key recommendation of the Ham Royal Commission on the Health and Safety of Workers in Mines and later reinforced through the Burkett commission, and was supported by the minister as being the foundation for safety legislation in this province.

Seven years ago, full-time worker inspectors became a reality and today form a part of the co-operative effort between labour and management in addressing workplace health and safety. I have attached to this brief a loose sheet at the end which is a Xerox copy of the portion in our collective agreement with the United Steelworkers of America that outlines the worker

health and safety representatives. That can be discussed perhaps later.

We acknowledge the importance of three basic rights of the worker: The right to know, the right to refuse unsafe work and the right to participate. These rights were supported and reinforced through training programs, notably our management participation in the provincially accepted high-quality level 1 and level 2 courses which have been developed for health and safety committees by the Workers' Health and Safety Centre and are supported and sponsored by the United Steelworkers of America.

The workplace hazardous materials information system training that was delivered on our property was developed by the workers' health centre and workers were selected and trained to deliver this material to all employees, staff and hourly alike.

Denison Mines Ltd agrees in principle with the majority of the basic tenets of the proposed changes to the act, namely, that:

1. The health and safety of Ontario's workplaces must be improved.
2. A genuine improvement can only come from effective involvement of workers and employers for ensuring workplace safety.
3. For this involvement to be meaningful, those in the workplace must be well trained and well informed on health and safety practices.
4. Improved health and safety requires control of workplace risks by workers and employers. In turn, effective control requires that both workers and management have appropriate rights and authorities.
5. These rights and authorities must be linked to appropriate capabilities and to assurance of responsible behaviour by both parties.
6. To ensure adherence to standards and procedures which serve to minimize workplace risk, government must have the necessary tools to enforce the legislation and to apply sanctions for failure to meet the obligations.
7. Those employers with exemplary occupational health and safety programs and performance should be rewarded, while those with poor performance should be more closely targeted for special scrutiny and sanctions.

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We do not believe there is a need for a proposed new agency to be established. There exist at present sufficient organizations whose mandate it is to provide guidance and training to industry and labour, and with modification to the directorate of these there lies ample opportunity to improve the health and safety and to minimize

conflict at the workplace without the creation of another bureaucracy.

We have traditionally supported the Mines Accident Prevention Association of Ontario and occupy a seat on the board of directors of this organization whose constitution allows representation from organized labour and the public at large.

Joint health and safety committees: throughout the proposal there is reference made to "authority" and to "rights," and it is our belief that these joint health and safety committees cannot enjoy these and participate effectively without the commensurate ability, responsibility and accountability that give full meaning to them.

The ability to perform is acquired through appropriate selection of candidates, and by adequate and meaningful training.

Responsibility will evolve when accountability is present through proper controls, which should be imposed equally on all members of the joint health and safety committees.

There can be no unilateral right of a worker representative to shut down an operation.

The Burkett commission in 1981 put it correctly when it stated: "Under legislation, each worker is entitled to refuse to work where he has reason to believe that he is likely to endanger himself or another worker. In view of this right to refuse we have not been convinced of the need to clothe the worker safety representatives with the authority to shut down an operation.

Burkett further stated that "a worker health and safety representative not be permitted to hold any union office or to engage in partisan union political activity of any kind." This is a key concept. If health and safety is to be given the importance it deserves, it must be set above and apart from other issues and it must not be subject to control by those in a position to manipulate. He would suggest the effectiveness of our worker inspectors has been diluted since they became elected officials of the local union.

New agency: it is the mandate of the Ministry of Labour to administer the Occupational Health and Safety Act, and it is funded for this function. Under the present system, where the time and the effort is being expended as it has been in Elliot Lake, the internal responsibility system works.

The provision in the amendments to create a new agency, as it is proposed will encourage conflict, not resolve it. Health and safety in the workplace must be kept out of the adversarial arena; otherwise, it will be used improperly with no benefit to the worker.

If such an agency is deemed necessary, we propose that its role be advisory in nature with the emphasis on providing training and guidance through the existing organizations and associations to those companies identified as in need of these services.

Funding for this agency should be through the general revenue of the government and not by taxation on industry via the Workers' Compensation Board.

The Burkett report identified direct responsibility for accident prevention as that belonging to the chief executive officer, the first-line supervisor and the worker. It stressed that the chief executive officer of each mining company review his personal commitment and contribution to the safety performance of his organization with a view to exercising his authority and leadership, consistent with a sound moral manner.

The first-line supervisor, through planning and supervising the performance of work, bears a direct responsibility for the manner in which, and the conditions under which the work is performed. As the management representative in the eyes of the individual worker, he must be adequately prepared through training to carry out his important role.

It is recommended that each worker review his commitment to safe work practices and undertake to work in a safe manner at all times, and to assume the full range of his responsibilities as a member of this system.

Contributive responsibility was assigned to the joint health and safety committee, to the safety departments, the unions, safety organizations and to the ministry.

Bill 208, as we see it, proposes to place more of the direct responsibility in the hands of the joint health and safety committees for controlling workplace risks. This is not where it belongs.

In conclusion, the present rights provisions are effective in protecting worker safety and have proven to be so when used by an informed worker and employer.

Proposed changes in health and safety legislation must consider the harmful effects of any conflict which may arise through its introduction.

The thrust of the amendments contained in Bill 208 are aimed at "empowering," "authority," and "enforcement."

Safety and health cannot be legislated or forced, nor can they be subject to negotiation. If meaningful progress is to be made, it will come about through education, not through the

creation of another agency whose very composition would encourage conflict. It is naïve to believe otherwise.

Ham, Burkett, McKenzie-Laskin and Laughren have all supported the internal responsibility system as the only effective way to deal with the health and safety of workers.

The Ontario mining community has been successful in making the internal responsibility system work. Our record proves it and we have been successful within the framework of the present legislation.

In 1988, if I may add, Denison Mines Ltd set an all-time Canadian record for underground hardrock mining for consecutive hours' work without a lost-time injury. That record has been surpassed by Rio Algom Ltd and it is continuing on to set a new record. Both of these mines are from the Elliot Lake camp.

The Chair: Thank you, Mr Moreau. On the bottom of the second page, you talk about MAPAO. I wondered about the "constitution allows representation from organized labour and the public at large." Perhaps it is a bit much to expect you to have the information right at hand, but we were trying to get at it before: that makeup of the MAPAO board, how many of each group are represented on that board?

Mr Moreau: It is not a bit much. I sit on the board of directors and I represent Denison Mines. When I heard the question posed this morning I was a little in doubt myself, because I knew that there were two sets of numbers, the present and the proposed. On the board of directors, by the current law, there are 13 volunteers from industry and there are two seats for labour, one for the Mine, Mill and Smelter Workers Union and one for the United Steelworkers of America.

Bylaw 52, awaiting the approval of the Workers' Compensation Board since May 1988, is for a new board to comprise 20 members. There will be 13 from industry, five from labour and two from the general public. Five seats were offered to organized labour—four to the United Steelworkers of America and one to Mine, Mill in June 1988—and we have received no official response.

The Chair: I would suspect that is partly because of this new legislation and the superagency that may fall into place. Thank you for that information.

Mr Mackenzie: One of the arguments you have revived, which we have had a couple of times previously but not very often and one that I have difficulty understanding, is the argument

that was originally made by Burkett, that a worker safety representative should not be permitted to hold any union office. There is no restriction on other union activities now for any of the worker safety reps that are in your operation or in—

Mr Moreau: No, they are elected by their fellow workers.

Mr Mackenzie: Would there be any restriction on a management representative dealing with health and safety? It seems to me that it would be inconceivable that he would be restricted from other activities as a member of management.

Mr Moreau: What other type of activities would he be—

Mr Mackenzie: I am not sure. If you are suggesting that a union health and safety rep be able to deal only as a worker safety representative and not play any other role in the union, that is what I find very, very difficult to understand. You would not do the same thing with a management rep on a health and safety committee, I do not think.

Mr Moreau: I understand what you are saying and I guess you would not do that because then, of course, there would be no reporting structure. You may wish to know that in Elliot Lake at Denison Mines, as the worker representatives or the worker inspectors have evolved over the years, they have become much better at their job. It was very difficult in the beginning, because it was a new responsibility that was very difficult for the worker representatives to assume, and I think also it was new ground being opened up on behalf of the unions as well.

At the present time, we at Denison Mines do not have safety inspectors on the management staff. All our safety inspectors are worker representatives.

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Mr Mackenzie: Are you able to give us any specific examples of where other union activity on the part of any of the safety representatives has caused you any specific problems?

Mr Moreau: I do not think I can give you any specific examples at this time, and you may find, and I think it is not unhealthy to understand, that it would depend on the nature and lifespan of the collective agreement. In other words, you are less likely to get outside influence when the collective agreement has been signed and it is well in place rather than when it is approaching the end of its life.

Mr Mackenzie: I just found it sort of odd that you threw this argument in and it surfaced once again, because it really does not make any sense.

Mr Moreau: It makes sense on the job, when health and safety has to be an issue that is being addressed because it is a health and safety issue and it is not being subjected to a hidden agenda by anyone else.

Mr Mackenzie: But it is not giving you any problems now and it is something you could not enforce on a management representative. It is just totally irrational.

Mr Moreau: It has not given us any problems that we have not been able to address.

Mr Dietsch: Perhaps you could outline for me your feelings with respect to 50 per cent representation on some of these committees. You have obviously been involved in the revamping of the MAPAO, and you have seen fit to increase the amount of worker representation in that particular area. What are your feelings with respect to increasing the worker representation on the agencies and associations, as is proposed, to 50 per cent of worker participation?

Mr Moreau: I suppose if I were to wear the hat of the union, I would want 50 per cent or more than 50 per cent. Because I have been on both sides of the fence, but I have been on management side for a much longer part of my working life, I wear the management hat and I naturally would like to see the balance of power swayed toward the management side, mainly because I believe that it is the right and the responsibility of management to manage and to control and I do not know whether the unions would want that responsibility to control the workplace. As such, I believe that management must have the balance of power, but the representation should be there. It is necessary. And if they are there, of course, they have to be meaningful and they have to be listened to.

Mr Dietsch: I guess I am looking at the comment made in your brief with respect to the agency: "The provision in the amendments to create a new agency, as is proposed, will encourage conflict, not resolve it." I would like you to explain to me why you see it that way.

Mr Moreau: At the present time, we feel there are adequate agencies and they are doing a good job. I do not think that any of the problems in place in the workplace with respect to health and safety issues can be resolved by imposing yet another agency on top of what we already have in place. We at Denison Mines work very, very hard with our local union to work within the

guidelines that we already have. We like to believe that we have made it work.

Like any relationship, the labour-management relationship, even at its best, is a very delicate issue, a very delicate situation. I think a new agency, as it is proposed, would lead to, as someone mentioned this morning, a policeman-type of concept. We like to think that that is moving away from all the work we have done to bring it towards the co-operative level.

Mr Dietsch: I am still a bit concerned, I guess, about that kind of response, the reason being that the agency, as is proposed in Bill 208 is with the parameters that the agency would be made up of 50 per cent management and 50 per cent labour, its criteria of responsibility would be to develop an area of criteria for certification of workers. They would be the governing body over the associations who would deliver the training and the education to the workers. I do not understand how that kind of agency would create conflict. If they are only developing education and enhancing the education for health and safety and they are setting out their guidelines in the development of criteria for certification, where does the conflict come in?

Mr Moreau: I think it may develop into something larger or longer than that. If a new agency is as you say, then we believe it would best be served as being an advisory agency. The work that has already been done by a lot of the safety associations, we feel, would be in jeopardy. That is our feeling on that.

Mr Dietsch: The delivery of that service is not going to change. Those associations would not be in jeopardy. The delivery of those services that those associations in the proposals are to increase the membership in terms of worker representation, and obviously you have given that some consideration in the development and redesign of—what do you call it?

Mr Moreau: The MAPAO, yes.

Mr Dietsch: I guess I do not quite understand where you are coming from in terms of conflict unless there is something you are not telling me.

Mr Moreau: No, there is not anything I'm not telling you. It is just a feeling we have. We believe that what we have in place now works very well and we do not need anything else to be superimposed over that.

Mr Dietsch: So it is a feeling and concern, not necessarily anything factual.

Mr Moreau: Yes.

Miss Martel: I want to go back to a point you raised on the page 3, where you said, "There can

be no unilateral right of a worker representative to shut down an operation."

I am just wondering what you are meaning by that, because I have a copy of the appendix that you attached to the brief and it seemed to me, at least in the appendix that you attached, that in fact the worker rep did have that right.

Mr Moreau: It appears that the right is there. The difference is subtle but very important. What we have in our collective agreement basically is a reinforcement of the internal responsibility system. What we see in the proposal in Bill 208 is the taking away of the responsibility for the worker and the supervisor or the manager and transferring that to someone else.

It has taken a long time to have our management and our workers buy in to the concept of health and safety as an issue that everybody is responsible for, and we think that if a certified worker representative and certified management representative were in fact in place, then perhaps those at the workplace would abdicate their responsibilities and back away from it and then give it to those other people as their job. That is where we see the conflict starting to develop.

We would like to work on what we have already got. It is something that still has some fuzzy edges, but they can be improved upon.

Miss Martel: But you cannot see that that could be replaced, that your worker reps could actually become the certified reps. This is where I am having a difficulty. I cannot see how the people who you have in place doing the same kind of job that we envision under this bill could not in fact do that and still work within the framework of the internal responsibility system, still deal with management, still deal with the workers that they do now as worker reps. I cannot see where there is the problem that not only yourself but people from Rio Algom and Inco have talked about.

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Mr Moreau: I can only comment that what we have at the present time has been earned and there is a certain buy-in there. Both parties have come to grips with that over a period of time.

Designating someone as a certified rep, we feel, would remove perhaps the onus from the other parties at the workplace and leave perhaps two people on a property—one management and one labour—with the authority to shut down an operation. What our workers do is they do not shut down an operation. Our philosophy on the work is, any worker can stop unsafe work at any time, and we address that issue.

Sometimes it is a little bit tough to address the issue because you have people coming together not always under the calmest of circumstances when you have a work stoppage. I do not think it is conducive to that kind of effort, to co-operation, when you have someone who has really been given a big stick. We would like to stay away from that.

It may be required in other areas, but we believe that the mining community in Ontario has developed a mining model, based on the internal responsibility system, that works. We are going to continue working at it.

Miss Martel: I guess what I would say is you are fortunate, or maybe I should say your workers are fortunate, that in each place they have a strong union, a big local. That union has fought really hard in some cases to get it into the collective agreement.

Mr Moreau: It most certainly has.

Miss Martel: We are not seeing that across the rest of the province. What we have been seeing, at least in the committee hearings I have been involved in, is the breakdown, in many places, of the IRS, because there is no enforcement, because the employer does not listen to the recommendations of the joint health and safety committee, because the ministry comes in there and does not issue orders, it does not enforce orders, so I worry.

I appreciate that it works fairly well where you are, but I think it probably works because of the union involvement and because of the work that has gone in from both parties. I hate to see us say, "Well, it is happening in these big plants, but never mind about the rest of the province." That is where my concern is.

Mr Moreau: It is not something that works right away. It takes time. Both parties have to come to grips with the realities that neither party is going to solve the problem on its own. It has taken us all of this decade or the past decade, in the 1980s, to develop to the point where we have that mutual trust and mutual respect that exists now. It is not yet a marriage made in heaven by any stretch of the imagination, but it does work. We do have some bumpy issues at times, but we do resolve them.

We have the involvement of the Ministry of Labour very seldom. Our inspection rate has been reduced to once per quarter and we would like to see, some day in the future, where we will be inspected once a year because of our record, that they can leave us alone and go and address the issues where they are really important and needed.

The Vice-Chair: We are down to the last minute and there is one other member who wanted to ask a question. I am wondering if we can go to Mr Carrothers for a moment.

Mr Carrothers: I guess I have been struggling with the same question that Miss Martel is and that is the distinction which you and others are drawing between what seems to be working in the workplace with the inspector and the proposed safety reps there. I am wondering if I could come at it from another way just to make me better understand how the system works in your workplace. If a worker inspector finds an unsafe situation, what does he do? How does he deal with that? What happens?

Mr Moreau: It depends if the unsafe situation is manned.

Mr Carrothers: Let's assume it is creating danger for someone.

Mr Moreau: In an underground mine, if he walks into an area where a person is working and there is danger, his first responsibility is first of all to make sure that worker removes himself from the danger and shuts down whatever he is doing or gets out from under what they call in the mining industry "loose," which is rock that can fall on a person. Then they rope off the area, and then they get the supervisor and they address it.

Mr Carrothers: Would there be any areas in your workplace where you might have some sort of process—I guess I am thinking now of manufacturing workplaces where you would have an activity going on involving many, many workers dependent on each other's activity for what is going on. What you are sort of talking about are workers in isolated places, I guess.

Mr Moreau: In the mining industry, unless they are working in a garage on maintenance work, repairing equipment, normally you will find the workers in small groups of two or three working out in a specific area.

Mr Carrothers: So you would not get groupings of 200 or 300 who might be carrying out a process. I guess what I am trying to ask is, and maybe you cannot answer because of the nature of your workplace, if the worker inspector came across a situation affecting one of those processes where many were involved, one individual worker might not realize the impact he was having, etc. What would happen in your workplace then? Would the worker inspector be able to close that whole process, whether it works it out, or what would take place?

Mr Moreau: I can only guess, because I am not in that industry. I have been in the mining

industry over 30 years, so I have not been in the manufacturing industry. I can only guess that, first of all, it would take a worker inspector with a tremendous amount of maturity and respect. To do that, it would take a management that has come along, that has grown with the worker inspector to accept that as well. It is not something you do overnight. You do not say, "Everyone else in the industry is going to have worker inspectors, and management is going to behave and you are going to have a wonderful situation." That does not happen. That takes years.

The Chair: Mr Moreau, thank you very much for your presentation.

The next presentation is from the Canadian Union of Mine Mill and Smelter Workers. We have Mr Hrytsak, Mr Papke—where is Mr Briggs?

Mr Hrytsak: Mr Briggs is over trying to work out some CPP matters, actually.

The Chair: Mr Hrytsak, whenever you are ready, the next 30 minutes are yours and Mr Papke's.

CANADIAN UNION OF MINE MILL AND SMELTER WORKERS, LOCAL 598

Mr Hrytsak: Thank you for the opportunity to present this brief before you today.

As we say, perhaps "thank you" is inappropriate. Once again we sit here before you to defend the integrity of workers. This is fast becoming a trend in Ontario. It is evident by the proposed amendments that government and industry are of a like mind in that labour will act in a way to stifle productivity. We wish to point out that workers are those who suffer the direct impact of production loss, and as such, workers have always had the integrity to be upfront with their concerns, and also that the privileged stoppage of work is frowned upon by labour. Experience has shown us that each time legislation is introduced, workers are, in one form or another, put in their place. There must be an end to this draconian thinking on the part of industry and adopted by government.

In 1993, we at Mine Mill will be 100 years old. We are not new to the labour struggle. We have a proud history of accomplishments, both at the bargaining table and collective efforts before the government of the day. It has always been the aim of our union to have the rights of the workers respected and recognized. If the vehicle to this end is necessitated by legislation, then so be it. The bottom line is that workers must have equal

say and equal power in the workplace. Bill 208 must reflect and uphold this right.

Government tells us that industry and workers must come together and solve whatever problems develop in the workplace. Government tells us that the approach most wished for is through the internal responsibility system. Industry tells governments that labour is not responsible for safety and health in the workplace and that safety and health is the right of management, and legislation must not be used to this end. Industry tells us that it can manage its own house. We ask you then, why are there four workers injured every minute? Why is there one worker killed every day? We say this is unacceptable. We say the reason is that government has not yet fully lived up to its responsibility through adopting legislation that protects those in a job to the degree of equal power and responsibility.

Within Bill 208, we find a variance from what was proposed by the Honourable Greg Sorbara. Mr Sorbara had proposed a bill that would give workers a step in the right direction in regards to their self-protection on the job. He stated that Bill 208 would make a distinct difference, and he says, "Either we can hire every fourth person in the province to serve as a labour inspector or we can begin a process which, in the fullness of time, when fully in bloom, will give us a system where the workplace parties themselves are taking more responsibility." This statement says that both parties have equal power and responsibility. It is in this vein that we present this brief today.

We will first address the proposed agency as stated through the confines of the bill and amended. The workplace health and safety agency, as stated by Mr Sorbara on 28 March 1989, "Working through the safety associations, the agency will be primarily responsible for setting certification standards for members of workplace joint health and safety committees."

As there has been a structured change from the original proposal within the amendments produced by the ministry and distributed on 12 October 1989 in regard to safety associations, it now puts the agency's ability to fulfil its role in doubt. We have not seen anywhere in the information provided to us that this overseer role has been changed along with the composition of the associations.

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Where there was at first a bipartite agency with the ability to use experts, this has now evolved through amendments to a four-sector agency: a neutral chair, labour, business and safety profes-

sionals, along with a small business advisory committee. We ask, if it is to be fair, what about a small business labour advisory committee?

Once again, we see the erosion of worker rights in this change. How does this government hope to produce effective changes without an independent, balanced body? Professionals, more often than not, are management oriented. To what associations do they belong? What association established their expertise criteria? Once again, we find the internal responsibility system that is supported by government questioned by government; more to the point, perhaps the integrity of labour.

Our view is quite straightforward. Pattern the agency along the lines of the Mining Legislative Review Committee. Within this committee are members of voting status that do not hold interests outside of management or labour. The ministry facilitates and advises on points of law. Experts are utilized and their opinion expressed without their having direct decision-making rights. This is perhaps how the agency should be. This is a true bipartite relationship that utilizes expertise of both public and private sectors.

In order for there to be proper and full participation in the workplace by workers, there must be the power of closure of unsafe and unhealthy workplaces or areas by workers. The task of the agency is to provide proper training and ultimate certification of workers to perform this vital role. In this, we are in agreement, provided the agency is properly structured. We have no quarrel in that the qualified persons must act with responsibility and integrity. Only such a person should represent labour in this most important of workplace roles.

Of importance also is that management exercise responsibility if and when a workplace is shut down for unsafe or unhealthy conditions. The workers affected by such a closure must be paid at their normal rate of pay for the entire time that the workplace is closed. The agency can and will have direct control of the qualified person on safety committees. This also includes the strong measure of decertification for life, if this power is abused. But how can fair policy be set and fair hearings on alleged abuse be carried out if the associations have control? Management, no doubt, can speak for itself.

Of interest is whether or not the certified member is a "worker adviser." Our opinion is that this role of certified member is to be taken on by members of each joint health and safety committee. The role of the worker adviser or the worker inspector is set down in collective

agreements and is outside of the scope of Bill 208, as we read it, in that that was done through negotiations.

The power to close an unsafe or unhealthy workplace or area is only one part of this person's responsibility, but this responsibility is one that seems to be the most controversial. We assure management that its 18th-century mindset is not applicable. Likewise, we assure government that our aims are honourable.

The right to refuse unsafe or unhealthy work by a worker has come under review by the proposed Bill 208. Our proposal to you is that from the moment of refusal to the final resolution of the matter, the worker be fully protected, both in employment and any wage loss. We believe that the changes to subsections 23(4) and (5) in regard to wages and protection must be extended to include subsection 23(10).

On this, one must look at the wording of both sections of the act. It seems that subsection 23(10) deals only with the ministry investigation and the decision-making process and allows the employer to "give other instructions to the worker." This may very well mean "go home with no pay." These "other instructions" must not allow employers to send workers home without pay. This would be a form of penalty and would be in contravention of clauses 24(1)(c) and (d) of the existing Occupational Health and Safety Act.

Safety associations have built ivory towers over the years. Bill 208, in its original form, would have seen these bastions of business finally put to the test. They would develop programs that are of direct benefit to the safety and health of the person on the job, rather than developing programs that may or may not find their way to the workers.

We believed that with a 50 per cent labour representation chosen by labour, programs would be done. We now find that the "good old boys" have lobbied, and successfully, to protect their idea of safety and who controls safety and health in the workplace. The associations will say who are to join the club, and we wonder just how they plan to accomplish this forced integration. Once more, labour will stand, nose pressed against the window, watching the good old boys eat their oysters and drink their wine, probably at the Royal York.

The lasting effect of the amendments to Bill 208 will see an increase in the influence safety associations have in regard to the safety and health agency, and therefore a direct control of the joint health and safety committees province-

wide. This is a direct affront to the government aims of internal responsibility and sharing true responsibility and power in the workplace.

This government is to blame. This government, which blessed us with Bill 162, has found a way to ensure that the vicious circle will be unbroken. Poor training, poor conditions, ignorant workers, higher profits, disguised accident ratios and a vehicle to put injured workers on the public dole are what we envision with the proposed amendments.

The association must be bipartite. The use of experts is mandatory. The term "reportable accident" must be standardized. The term is the basis for judging the effectiveness of safety and health measures. We believe that not only should physical injury type accidents of all forms, for example, first aid, medical aid and compensable, be reported, but that accidents that are known as near misses play a vital role in monitoring workplace conditions. The monitoring of effectiveness is of importance. Equally important is that we all understand as a whole what we are monitoring. This must be through accepted, known definition.

The training of the certified member of a joint safety and health committee is, without question, one of the most important responsibilities of the agency. The facts of life are that those who represent management are on average of higher education than the worker and while it is arguable that those with prior training should receive some form of credit for this knowledge, we feel that this should not be done.

The agency must set its standards, outline its educational policy and ensure compliance. The fact that there are those with higher degrees of knowledge must not influence the concepts of the same training through a credit or exemption system. There must not be an unrealistic entrance criterion.

It must be remembered that workers are of all types of ethnic, social and educational backgrounds. It now seems that the government is ready to allow the slow, steady, unnoticeable destruction of the worker. Only what is perceived as immediate danger may be refused by a worker. As we do not know the thinking of the writer of this amendment, we question how legislation can be used to legally harm workers in the long term.

We are at a loss when it comes to understanding how one can separate long-term known danger from short-term or immediate danger. Workers such as those who labour in the mines, mills, smelters, forests and factories and other industries are crushed by rock, choked by diesel

fumes and industrial dust. We are burned by hot metal; we are delimbed by chainsaws; we are exposed daily to all the hazards of the workplace.

Bill 208 was to be at least a part of the solution to this horrendous tale of human suffering and death. So we say to the minister, through this committee, not to undo what has been proposed. It is so strange to find ourselves in the position where legislation is in fact saying that labour is incapable of exercising mature decision-making and requires management overseers.

That is our presentation to you today.

The Chair: Thank you very much. I have just one brief question. I probably should know the answer to this but I do not. Do you have full-time worker inspectors at Falconbridge?

Mr Papke: No, we do not.

Mr Hrytsak: No, we do not.

Mr Dietsch: Two of the presenters today have indicated that they feel that people who would be elected to the agency or people who would be elected to the association would not or should not, as was outlined in Burkett's report, hold other elected positions on the union or in fact participate in partisan union political activities. I think that is the way they worded it. What is your feeling in respect to that?

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Mr Hrytsak: It is quite simply this: Every worker has the same rights, and whether or not you hold a position with any union structure should not bar you from going forward and trying to increase the wellbeing of the workplace. If one is to look at segregation in that light—and that is exactly what is happening with that type of proposal—you are segregating the workforce itself.

If the unions say, "This is the individual who goes there and is best qualified," that is the person who should go there. If the person happens to hold some sort of stewardship or other type of position within a union, so be it. Perhaps that only adds to his decision-making abilities.

Miss Martel: I just want to go back to a couple of things that Falconbridge said this morning. I am not sure if you were here for all of their brief or not. Were you?

Mr Hrytsak: I have it with me and I have perused it.

Miss Martel: Let me go to page 9 and talk about the certified member, for example. About halfway down the page, that delegation suggested that it would be inconceivable to expect that a certified member with 30 or 60 hours of training

could responsively exercise the unilateral powers given to him in the bill. They further said that he could not be expected to know or understand all of the tasks involved in every job in a complete plant.

I am just wondering if you would like to respond to those two suggestions: (a) that a worker could not possibly be able to know what is going on in the whole plant; and (b) that the training of 30 or 60 hours, or whatever it ends up being after this bill, could possibly help people exercise the power correctly.

Mr Hrytsak: First of all, I have to congratulate whoever wrote 30 or 60 hours for gazing into his crystal ball and knowing what the agency is already going to do. Perhaps they do know. I do not know the answer to that.

But the point, I think, that is more important here is that in the existing context, it says that there would be one member from each joint occupational health and safety committee, from both management and labour, trained. We have 10 of those at Falconbridge in each managerial area, and each is comprised of four individuals who are experts in their areas. So that does not wash. If the training has to be 120 hours, I do not care. Let's get them qualified properly.

Miss Martel: So you have no illusion that it cannot work, based on your experience.

Mr Hrytsak: It can work. All we have to do is do it.

Mr Papke: That is right. It will work.

Miss Martel: There was something else that bothered me. Mel, did you want to say something?

Mr Papke: No, I just say that it will work because it has been proved before. They have said labour cannot teach or labour cannot do things. We have had them on committees where they have been successful and the workers were the ones who did the job.

Miss Martel: There was another thing that bothered me because it was more the inference than what was actually said. There was discussion about the internal responsibility system in particular: "The key partners in this resolution process are the worker and his immediate supervisor. This, in the simplest form, is the internal responsibility system." When you flip through the brief a little bit over, the idea is that the certified rep would get in the way of that and it should be the worker and his immediate supervisor who deal with health and safety problems.

The thing that bothered me was this: If you go on to page 5, you see the final paragraph says, "Our joint health and safety committee...endorse this concept, as shown in the Sudbury district safety and health committee's statements of principle." I go through the principle on the next page and I do not see anything in there that says the union endorses that the chain of command has to be worker, supervisor, and there is no room for a certified rep in there.

I am just wondering if you would like to make some comments there, because I know when I read through it, I did not think that was the union's position.

Mr Hrytsak: I believe if you read that in its proper context you will find that those are all nice motherhood statements. Whether they reflect reality or not are two different questions. I would like to pass the reality over to Mel, because he has the expertise in that area.

Mr Papke: Let's see the first one they have here, the statement of policy, where the company says, "give first consideration to safety and health." It is all right to have it down on paper, but it must also be practised. We are having problems with that at Falconbridge in each department, where it does not seem that all the supervisors know what the statement of policy is, to start off with.

This part of the second program here where they have the health and safety statement of principle, that is another one. It is written on paper, but very seldom is it practised among the supervisors and management. It is there in writing, it is signed once a year and maybe reviewed once a year, and the rest of the time very seldom is it ever used by management or supervisors.

Miss Martel: Are there any examples you can give the committee in terms of any recent problems you are having?

Mr Papke: When we have problems such as a worker is supposed to report to the supervisor, this does not always work. When the supervisor does not respond, then the workers come to the crush people or the safety and health representative. He brings it up at his monthly meeting or, if he has to, acts right away. As the company mentioned this morning, if this does not work out, then we also have the operation meeting.

It was not mentioned that the operation meeting is held only quarterly, every three months. So in other words, we have to wait three months before we can approach the company again on the problem. If it is not rectified, then it goes to the district, and the district meeting is

held once, possibly twice a year. So we may be waiting a year for any of these policies to get through.

The Chair: Thank you very much, Mr Hrytsak and Mr Papke, for your presentation.

The next presentation is from the Sudbury Construction Association. Is Mr Dolson here? We welcome you to the committee this afternoon. I think you know, if you have been here for a while, that we allow 30 minutes for each presentation. So we welcome you to the committee, and if you will introduce yourselves, we can proceed.

SUDBURY CONSTRUCTION ASSOCIATION

Mr Dolson: I am Doug Dolson, a director and honorary treasurer of the Sudbury Construction Association, and with me is Harold Martin, the executive director of the Sudbury Construction Association.

Our brief is presented by the Sudbury Construction Association, which represents 185 employers in our region. Our association is against many facets of Bill 208, but I will focus on one only, the right of a certified worker to stop work. Mr Martin will talk about the construction safety association.

Present legislation now permits an individual the right to refuse work that he or she considers to be dangerous. Under the new act, the certified worker will have the right to unilaterally stop work on the entire project. We feel that this right is putting too much power in the hands of one person. That employee has no financial responsibility on the project and yet has the power to close down a project of 50 or more workers at a minimum cost of \$1,500 or \$2,000 per hour to the contractors. Their pay is expected to carry on while waiting for corrections or a settlement of the issue.

In the event the work stoppage is not justified, the worker can be decertified and the contractor has legal rights through civil action against the decertified worker.

Now let us look at the cost of this scheme. The act states that the certified worker will be trained at the expense of the contractor. The suggested length of time for this training is 120 to 160 hours. Considering a cost of only \$30 per hour, we are looking at a minimum of \$3,600, provided the man is trained in his own home town. We do not all live in Toronto. Now, if the worker is decertified, the contractor is put to the expense again. Then what happens to his contract

while he is awaiting another certified worker at his own expense?

Now let's go back to the legal action. Have any of you ever been through court on a civil matter? It could take years, only for a judge to make a small punitive award, since the man has very few assets.

Regarding certification, I have seen very few people on a job site, including the inspectors, who are aware of all the safety aspects of all trades. It is just too much. Many of the tradesmen are not fully aware of all the safety aspects of their own trade.

The position of the Sudbury Construction Association: We agree with the minister's position that joint decision-making is best, unacceptable work practices should not be allowed and consistently poor performers, employers and employees, should be punished.

The Sudbury Construction Association believes that the position taken by the Council of Ontario Construction Associations is the correct route to take; that the unilateral stop-work right as proposed is unnecessary, damaging and creates potential for manipulation by unscrupulous workers and does not necessarily improve worker safety.

Management already has not only the right but the accountability to stop work. As workers already have the right to refuse unsafe work, the cessation of all work at a job site is wrong. The current rights now protect worker safety.

The Sudbury Construction Association, representing construction employees in this region, is totally opposed to the stop-work power for certified workers as proposed in Bill 208 for the following reasons: (1) the stop-work provision may reduce, not enhance work site safety; (2) the danger of reduced accountability by management and the individual worker to recognize and act on safety problems; (3) the placement of project-wide stop-work authority in the hands of the least informed work site partner; (4) the restoration and reinforcement of the confrontation model and the creation of manipulation opportunity.

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We propose the following: (1) deletion of a unilateral stop-work provision; (2) provide a fast conference mechanism to enable a ministry inspector to shut down a dangerous site; (3) accelerated safety training of all workers; (4) firm punitive action for poor safety performers—employers and employees; (5) for consistently poor safety performance by an employer we support the assignment of an inspector, at the

employer's expense, to the work site, and other appropriate and just punitive measures.

In conclusion, the Sudbury Construction Association does not support the right of a certified worker to stop work on a job site due to the fact that he is accountable to no one, has the power to control all personnel on a job site, cannot be apprised of safety matters for all trades, and if decertified adds additional costs to an already overgoverned contractor who spends more time dealing with various levels of government than effectively running his business.

Now I will let Mr Martin take over.

Mr Martin: I would like to add very briefly to Doug's remarks.

The safety record of the Ontario construction industry is the best in the world and getting better. The Ministry of Labour's own publication, Construction Safety in Ontario, states that Ontario's construction employers have the best safety record in the world. I refer to this publication and I have a couple of copies here that I can leave for you.

The two driving forces behind the improving safety record are the Construction Safety Association of Ontario and the co-operative labour-employer approach to work site safety management.

The successful years of building this institution and forging a culture of work site safety partnership could be ended by an abrupt change in the controlling dynamics. The forced partnership in the Construction Safety Association of Ontario can only lead to increased confrontation and slower progress in safety accountability among employers.

The proposed new agency, which will be made up of individuals from all sectors of the economy, will deprive the construction industry of board members who are totally experienced in construction safety and will greatly reduce the autonomy of the existing CSAO. I am a firm believer in the old adage, "If it ain't broke, don't fix it."

A real mystery of this bill is why it is being applied universally. Rather than building on the construction industry's progress and positive relationship developed over the past 22 years, it blindly structures a new framework that reduces the construction workplace to another classical labour-management confrontation. There is no need to disrupt and stifle a process that is working effectively and showing a significant improvement trend.

We propose substantial amendments to allow the CSAO to retain the independence that has

produced outstanding safety results; allow an independent committee to conduct a sunset of the agency three years after the passage of the bill; allow representation of all Ontario construction workers, not just unions, on the agency; ask for full accountability by all parties; propose fewer confrontational work site safety management procedures; distribute fairly the cost of this increased training; continue to build on the participatory approach to site safety management.

The construction industry is for the highest possible work site safety and worker health and is willing to accelerate the process in which it has been the leader. It asks that this not be done in an autocratic or paternalistic fashion but by continuing the unique processes developed and flourishing in this singular industry. Only in this way can we maximize the safety of workers and the economic health of the province. Our solution includes a policy formation process as participative as the management process the ministry is seeking

The Chair: Thank you very much. Several members indicated an interest in asking you questions.

Mr Dietsch: Have you experienced abuses in the workplace now? In your experience of working in the workplace, have you experienced where workers have abused the situation as it exists currently?

Mr Dolson: We are not aware of any ourselves, but I cannot speak for all contractors in the area.

Mr Martin: Are you talking about a worker exercising his—

Mr Dietsch: Right to refuse work; yes.

Mr Martin: We had a situation at the Inco Ltd Clarabelle job site just before Christmas where with one of our contractors his entire crew of plumbers refused to show up for work because a gas line that had been installed by a nonunion contractor was supposedly unsafe. The line had been installed under licence, had been inspected by government inspectors and was perfectly safe. The contractor felt this was just a little warning to Inco Ltd that rest of the project should be done union.

Mr Dietsch: So do you constitute that as an abuse of the stop-work?

Mr Martin: Yes, I certainly do.

Mr Dietsch: In relation to some of the comments you make in your brief, you look like you have been in the industry for a few years and have a considerable amount of experience—

Interjections.

Mrs Marland: You can have a point of personal privilege if you wish.

Mr Dietsch: Do you disagree with my comment? Have you been in the industry for many years?

Mr Martin: Quite a while; yes.

Mr Dietsch: I guess I was right in my judgement. How many times have you run into this abuse of the process?

Mr Martin: It will occur. I get involved quite a lot in labour relations for the association and work stoppages on the excuse of a safety issue seem to occur, coincide quite often with contract negotiations, much more so than they do at other times of the year.

Mr Dietsch: I am concerned with your comments at the bottom of the page. They are the comments that were echoed by your senior partner, if you will, in terms of the Council of Ontario Construction Organizations. It states the "potential for manipulation by unscrupulous workers." I flag that as a concern. As a person who has the kind of experience you would have over a large number of years, I am sure, in dealing with a number of workers, do you find that workers in general are unscrupulous?

Mr Martin: I think the construction industry is no worse than any other industry. We have our fair share of people who will abuse safety regulations.

Mr Dietsch: Would you say they are minor in nature? Give me an idea. Are we talking about a large problem or are we talking in your particular case about a small problem?

Mr Martin: Under the existing rules and regulations it is not a problem, but I could foresee it becoming a major problem under the proposed rules.

Mr Dietsch: I guess I want to say to you that just as I do not believe employers are out there killing workers, I do not believe that there are unscrupulous workers taking advantage of the system. I think what we have is some of each. I think there are some employers who are perhaps less than desirable and you have mentioned that you feel those individuals should be prosecuted. On the other hand we have workers who have perhaps from time to time taken advantage. But by and large, general statements such as the kind you make in your brief I do not think do anything to build and foster a working partnership. I prefer those kinds of things from a factual viewpoint, if you can appreciate what I am trying to say.

Mr Martin: Yes, I hear what you are saying.
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Miss Martel: I want to go back to the point you raised. You just finished saying that there had not been and you had not seen a tremendous problem, and that was echoed by COCA when it was before us and by the Niagara Home Builders Association, that they could not give to us numbers of abuses. But you say you foresee there will be abuse. I am just wondering how you get from point A to point B when there has not been an indication of abuse now. What is it going to be that will suddenly trigger workers to become irresponsible and use this kind of right frivolously?

Mr Martin: Surely you can appreciate that in a negotiating situation where an employee has the right to stop work on whatever grounds—they could be frivolous or not—there is a distinct temptation there for such a worker to use this to manipulate the negotiations.

Miss Martel: COCA told us, or at least the Niagara Construction Association told us, that about 70 per cent of all the workers it has are nonunionized so they would not be into the problem of—well, I do not consider it a problem. They would not be into negotiations. I am just wondering if you want to tell us what proportion of workers you deal with, what is unionized versus nonunionized, and how likely it is going to be that the people you deal with are going to use that through contract negotiations.

Mr Martin: This area is probably more unionized in construction than St Catharines is. I would guess we are 50-50?

Mr Dolson: Close to 50-50.

Miss Martel: I am concerned when I hear this because the legislation allows for not only worker representatives but management representatives, and I have yet to hear a management group come and tell me that a management representative is going to use this right frivolously. It is always the worker rep. I am wondering why that is.

Mr Martin: I cannot visualize where a management worker would want to use it frivolously.

Miss Martel: Just as I cannot imagine why a worker would want to use it frivolously.

Mr Dolson: I think, as Harold said, it happened just a month or so ago, so we have seen it happen here very recently.

Miss Martel: I have not heard their side of the story either. We can only go by what you are

telling us. That is the only indication you gave us. Neither COCA nor the Niagara group could give us any example of when it had been abused. That is why I get worried when I hear again and again that it is going to be abused.

Mr Martin: Maybe at some of your future meetings we will have some of those answers for you.

Mr Dietsch: With respect to one of your proposals, you make a recommendation of providing a fast conference mechanism to enable a ministry inspector to shut down. I am wondering about your viewpoint on that same fast conference approach with the worker rather than the ministry. Why would we not take advantage of a fast-track conference approach with the worker who is involved with the challenge of whether there is a particular situation on the work site that would endanger safety?

Mr Dolson: In effect he has that now by virtue of being able to refuse unsafe work, rather than shut down a project of 50 or even 500 people.

Mr Dietsch: Is it your view that the project would be totally shut down or just the job the individual is doing?

Mr Dolson: As we understand Bill 208, it would be the entire project, but we have gone along and agree with the right of the employee to refuse work on his own individual job.

Mr Dietsch: So if it was the case that it was the individual work site with respect to the job that the individual is doing, as opposed to a whole scope of jobs, you do not have a problem with it.

Mr Dolson: No.

The Chair: Thank you. Now I have Mr. Carrothers.

Mr Carrothers: My questions have been asked, Mr Chairman, so I will pass.

The Chair: The final presentation of the afternoon is from the Canadian Paperworkers Union. Mr Viau, we welcome you and your colleagues to the committee. If you will introduce them we can get on. The next 30 minutes are yours.

CANADIAN PAPERWORKERS UNION

Mr Viau: I brought with me Jerry Woods, who is our area representative in this area, and Homer Daviau, who is my local president.

Thank you for this opportunity to speak on Bill 208. This proposed legislation is extremely important to us who work in a hazardous industry. Our health, our safety, even our lives

are at stake and our feelings are deep. When we addressed you last year on Bill 162, we explained in great detail the health and safety problems we experience, and at that time we expressed our hope that workers' compensation problems could eventually be eliminated by making our workplaces safer. The fact that the government is changing the act proves that it is at least thinking that more must be done to reduce the unacceptable rate of injuries in Ontario's workplaces.

What Bill 208 was supposed to be: it was exactly one year ago tomorrow that the former Minister of Labour, Mr Sorbara, introduced Bill 208 with great fanfare and glowing advertisements. To quote his press release: "Workplaces in which illness and injury are prevented and health and safety are protected contribute to the effectiveness and productivity of Ontario enterprise. They are basic to an equitable society and strong economy."

We could not have said it better ourselves. Then Mr Sorbara added: "These amendments constitute a bold, new approach to reducing the risks of workplace accident and illness....They are driven by a belief that people who must live by our workplace health and safety rules must play an active role in shaping them and the system they create."

May we suggest, with respect, that the last statement was a gross misrepresentation of Bill 208. The reality is that this bill is a weak-kneed attempt to appear to be doing more by creating a lot of activity while refraining from giving workers the basic rights to protect themselves without fear of reprisal from their employers.

This is not to say that Bill 208 is without any merit. It is just that an opportunity to truly take a bold new approach has been missed. It is likely to be another 10 years before there is any opportunity to seriously address the critical problem of workplace injuries and fatalities.

Good points about Bill 208: we do welcome the following amendments to the present Occupational Health and Safety Act:

1. The establishment of joint health and safety committees in all workplaces with 20 or more workers. While this does not affect our members directly, we have family and friends who work in places that are exempt under the current act. There was never any justification for this and we are glad to see it changed.

2. The requirement of at least one hour of paid preparation time for committee members. This is a small but still important change.

3. The requirement that committees and worker representatives be consulted about and

present during industrial hygiene testing. Over time, this should add to greater worker awareness of monitoring the workplace.

1640

4. The duty of officers and directors of a corporation to safeguard the occupational health and safety of workers. It is about time that those who directly profit from other people's labour have the responsibility to protect them.

5. The increase in the maximum fine to \$500,000 against a corporation convicted of violating the act. This, at least, is a recognition of the seriousness of the responsibility to obey the law. We hope that the lesser fines will be scaled up accordingly. As we said in our brief on Bill 162, the only way to clean up the workplace is to make it more expensive not to.

There are other positive aspects of Bill 208 with which we agree. However, except perhaps for the increased fines, none of these proposed amendments are particularly bold. They expand the scope of the current act somewhat, but the bill in its entirety does not recognize that there will always be a conflict between profits and safety and that the law must fall down squarely on the side of safety.

Our objections to Bill 208: According to the government's own figures, over seven million work days were lost in 1987 alone because of occupational accidents and illnesses. We know that the true figure must be much higher because of the number of unreported injuries. The number of official workplace deaths was over 300, but that is clearly an understatement if all occupational diseases were recognized.

Is this not a crisis? Do frightening statistics like this not cry out for truly bold new approaches? We think so, which is why we are disappointed with Bill 208. Here is a brief explanation of our major concerns about the shortcomings of this bill.

Major limits on a worker's right to refuse unsafe work activities: As we understand it, workers will not be able to legally refuse unsafe work activities unless they pose an "imminent hazard or threat." This would eliminate a worker's right to refuse a remedy for poorly designed equipment or jobs, which will likely result in repetitive strain injuries. What a tragedy this is. During the last 10 years we have learned so much more than we used to know about the long-term effects of repetitive strain. These injuries are on the increase in our industry as well as other industries.

Perhaps the term "repetitive strain" just does not sound very serious, but when you hear from

members who cannot lift their own children, do work around their houses or enjoy sports or hobbies they have done all their lives all because of repetitive strain injuries, the problem takes on a more serious dimension. Repetitive strain injuries do not kill; they cripple. They are a workplace plague, which Bill 208 turns a blind eye to.

Of course, we understand why employers are so frightened at the prospect of workers refusing to perform work that they have good grounds to believe will eventually cripple them. But so what? Car manufacturers complain every time there is a rule that requires them to make cars safer. They always claim that it will cost too much money and reduce sales. Do we have sympathy for them? No, we sympathize with the victims of unsafe cars. The same attitude should prevail in the workplace.

The government may claim that such problems are best dealt with in the occupational health and safety committees. We would like to think so, but we have had such committees for 10 years now, and the health and safety statistics show that the situation is getting worse. The epidemic of repetitive strain injuries will only be cured by forcing the issue. Perhaps this is too bad, but it is a fact of life. It is time the government faced up to the facts of life.

Workers who refuse to perform unsafe work on reasonable grounds are not protected from a loss of income: Bill 208 says that workers must be paid their full wages during the first stage of a work refusal. Big deal. A typical investigation at the first stage of a work refusal takes less than 15 minutes. Even if management agrees the work is unsafe, the worker is assigned to some other job. The serious problem, which takes a lot longer to resolve, happens when the worker continues to refuse to do an unsafe job. In such a case management can assign another worker to do the job—a worker who will more than likely be intimidated into performing it—and send the refusing worker home without pay. “Sorry, if you can’t do that job, we have no work for you.” This forces the refusing worker to go to the Ontario Labour Relations Board to make his or her case, something that workers who do not have the protection of a union are extremely unlikely to do. In fact, how many cases of nonunion workers complaining to the board about management reprisals have there been in the last 10 years? We suspect it would not take long to add them up.

At the very least, an inspector should have the power to order the employer to pay a refusing

worker his or her full wages. Such an order can be enforced a great deal more easily than by going to the labour relations board. Furthermore, an employer who is found to have penalized a worker for exercising legitimate rights should be prosecuted. After all, no employer can reasonably claim, “I didn’t know that I couldn’t penalize him for refusing unsafe work.” Every act or reprisal is a deliberate violation of the law. This cannot be tolerated. It is just plain wrong to force endangered workers to choose between their health and safety and their income. There can be no justification for this in an equitable society.

Workers do not have the right to bring independent experts into the workplace: It is not that we think that management’s experts and advisers would deliberately cover up or ignore hazards. We just want the right to a second opinion if we are not satisfied with the first. What is the problem with this?

Many health and safety issues are complex and technical. If workers are truly to be meaningful participants in workplace health and safety, they need the assistance of experts who will take the time to explain complex matters from the workers’ perspective. We completely support the Ontario Federation of Labour’s proposal that labour members of the committee be permitted to bring their own advisers into the workplace for committee meetings, with the agreement of the committee. Surely this is not too much to ask. In matters of health and safety, ignorance is not bliss—it is dangerous.

Chemical testing is not required: By failing to require the adequate testing of all workplace chemicals, the government is putting its head in the sand. Some of our members work with chemicals that can kill in minutes, even seconds. Other chemicals may take longer to do their silent, deadly work. The government’s white paper states that the right to know what hazards exist in the workplace is a basic right (page 4). Does it not follow that this right is meaningless if there is no information to guide us as to what is or is not a hazard? Chemicals are not people. They should be considered guilty of potentially harming humans until proven innocent.

1650

The powers of certified members are far too limited: The idea of specially trained representatives with the authority to immediately address serious health and safety problems is a good one, but Bill 208 almost neutralizes this idea by placing real and potential restrictions on the authority of these certified members.

First of all, it is amazing to us that the management-certified member can overrule a labour-certified member and start up the workplace which was stopped. What is the reasoning here? Will the training of management-certified members be superior to that given to labour-certified members? Not likely. Will management members know more about the law and regulations than the labour members? Again, not very likely. Will the labour-certified members act irresponsibly and order work stoppages without reasonable grounds? This is highly unlikely, especially in view of the potentially severe penalties that could be imposed for irresponsibly stopping work.

Second, the labour-certified members are not required to investigate all worker complaints about unsafe working conditions. This means that they can, and some undoubtedly will, be pressured by their employers to ignore or delay investigating some complaints.

Third, the certified member can only stop work if the law or a regulation is being violated in a dangerous situation. The trained judgement that a work situation poses a danger to workers will not be enough. If the law is inadequate by not addressing a hazardous situation, then workers must continue to be exposed to it unless they individually have the courage to refuse work and potentially have a conflict with their employer.

Finally, the certified member may be forced to economically punish the very workers he or she is trying to protect. Since Bill 208 does not guarantee the wages of workers who are affected by a work stoppage, certified members will be asking themselves questions like: "Just how hazardous is this situation? Is it so bad that I can risk causing my fellow workers to lose wages?" Forcing this choice on a member who is most likely deeply concerned about health and safety is not fair, not sensible and will sometimes defeat the very purpose of the law.

In conclusion, Bill 208 does not, as advertised, give workers and employers greater joint responsibility for health and safety and greater authority to reduce workplace risks, at least not when taken as a whole. There are many improvements over the current law, but there are many backward steps as well. Many of the improvements are token; others are highly restrictive. The government has yet to recognize its primary responsibility of ensuring that Ontario's workplaces are as safe as they can possibly be. We fear that it will do little to reduce the human toll of simply earning a living in this province.

Bill 208 is a year old now. We have waited a long time for improvements in the act, but we are willing to wait longer for some serious and fundamental improvements. The stakes are high. Ask the victims.

The Chair: Thank you for your presentation. Are there any CPU contracts with your employers that include worker inspectors?

Mr Viau: No, just the health and safety members do workplace inspections.

The Chair: Are there many, or do you know of any, work refusals among your members?

Mr Viau: I work for E.B. Eddy in Espanola and we only had one last year for which we had to call the inspector in.

The Chair: How was that resolved?

Mr Viau: The inspector ruled that the equipment was unsafe and they had to repair the equipment.

Miss Martel: The presentation by CPU in Toronto last week was particularly moving because the people who were presenting—Mark Weare in particular—talked about experiences in their own local. The points that they made, which were reinforced, was the need to have a certified representative being able to shut down a workplace became even more important for them because the internal responsibility system was not working. They outlined the two cases in particular.

I am just wondering, for the local that you represent or others that are mentioned here, if you are having the same type of problem, that this need is even more necessary because of the problems of management not responding to the joint health and safety committee.

Mr Viau: Yes, we have the same problem. The internal responsibility system is great on paper. However, when you get into the workplace, you have some supervisors who just refuse to operate by it where you have the worker go in as supervisor and indicate an unsafe piece of equipment or an unsafe workplace. It just does not work. In our workplace, I have to get involved as a committee member to try and go to management and try and get the thing straightened out where you might also have to go to the safety co-ordinator for the mill. It just does not work the way it is supposed to work. This sort of thing is happening throughout the industry in this area.

The Chair: Mr Viau, thank you and your colleagues for your presentation.

For members of the committee who had indicated an interest in going out to Science

North, there will be transportation out there at 6:45. There will be a tour of Science North at seven, and we will be eating there at eight. The reason we are doing it that way is to make it easier for them with their staff arrangements out there for the tour. So it will be a one-hour tour of

Science North for those members who want to do that. We leave here at 6:45 to be there for the seven o'clock tour. Thank you very much. We are adjourned until 9 am on Thursday in Sault Ste Marie.

The committee adjourned at 1657.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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From North Bay and District Labour Council:

MacDonald, Ron, Staff Representative, United Steelworkers of America:

From the Ontario Federation of Labour and the Sudbury and District Labour Council:

Wilson, Gordon F., President, Ontario Federation of Labour

Edey, Roy, Executive Secretary, Sudbury and District Labour Council

From the Sudbury District CUPE Council:

Hould, Ken, President

Devitt, Joe, Health and Safety Representative, Canadian Union of Public Employees

From Rio Algom Ltd:

Napier, Guy F., Manager of Safety, Training and Industrial Relations

From the United Steelworkers of America, Local 5417:

Glibbery, Wayne, Chairman





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Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development

Occupational Health and Safety Statute Law Amendment Act, 1989

Second Session, 34th Parliament

Thursday 25 January 1990



Speaker: Honourable Hugh A. Edighoffer
Clerk of the House: Claude L. DesRosiers

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with a list of the members of the committee and other members and witnesses taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday 25 January 1990

The committee met at 0914 in the Grand Hall, Best Western Water Tower Inn, Sault Ste Marie.

OCCUPATIONAL HEALTH AND SAFETY STATUTE LAW AMENDMENT ACT, 1989 (continued)

Consideration of Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

The Chair: The standing committee on resources development will come to order. I think you can all hear me now. We do still have problems with the sound system, so we are going to be asking the witnesses to sit over here on the left while they continue to work on the sound.

The resources committee was given the task by the Legislature itself to hold public hearings on Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act. We have public hearings for about five weeks. This is our second week. At the conclusion of the public hearings, the committee sits down and goes through the bill clause by clause to determine what, if any, amendments should be made to the bill, and then it is reported back the Legislature. We already know that date, 26 March.

There are some very basic rules we must follow. The committees are an extension of the Legislature, and the rules that apply in the Legislature apply in the committee.

We are very pleased that you are here, that is what the public process is all about, but I would ask you to respect the right of witnesses who are appearing before the committee. They are here as our guests. We want them here. Sometimes I know you will not agree with what some of the witnesses say, but they have a right to be here and to say what they say, so I would ask that you not demonstrate against witnesses. As I have said in other places, the right to abuse witnesses lies with the committee, not with the audience, so I would ask you to respect that. We are informal in other ways, but we really must follow the standing orders of the Legislature itself.

We are getting a late start, so we should move along. I will introduce the members of the committee who are here. It is an all-party committee, in the same proportion, roughly, as the membership in the Legislature. In this case,

that means six Liberals, two Conservatives and two New Democrats, and of course I am a neutral chair.

Interjections.

The Chair: No heckling from the committee members, please.

On my far right is Margaret Marland from Mississauga South. Taras Kozyra is from Port Arthur. Mike Dietsch is from St Catharines-Brock. Dalton McGuinty is from Ottawa South. In front of me to the immediate right is David Fleet from High Park-Swansea. Next to him is Jack Riddell from Huron and Doug Carrothers from Oakville South. On my left is Doug Wiseman from Lanark-Renfrew, and on my far left, if I can use that term with Bob, is Bob Mackenzie from Hamilton East, and a stranger to all of us, Bud Wildman from Algoma.

We have had a long-standing rule that any signs in the room must not have any sticks attached to them.

Interjection.

The Chair: No. As a matter of fact, we are even bending the rules a bit to have signs in the room, so that is an order that we must adhere to.

We have a really tight schedule today. There is a flight that the members must catch at four o'clock and we are already behind, so I think we should move quickly into the agenda.

The first presentation is from members of the Sault Ste Marie and District Labour Council, if they would come up to the left here.

Just before they begin, there are a couple of changes to the agenda. At 12 noon, because of the problem of scheduling, there was a cancellation. At 12 noon we will have the Sault Ste Marie Injured Workers' Union making a presentation in place of the Sault Ste Marie Home Builders Association which cancelled. At 2:30 pm, the Canadian Union of Public Employees will make a presentation. That will take us to three, at which point we really must be out of here quickly.

So without further ado we must begin, and we welcome the Sault Ste Marie and District Labour Council here. We are pleased you are here. The rule is that the next 30 minutes are yours. We must stop at the end of 30 minutes. You can take the full 30 minutes to make your presentation or

you can take part of it and leave the balance of the 30 minutes for an exchange with members of the committee. That is entirely up to the people making the presentation.

So welcome to the committee. I am sorry, we have to operate the mikes manually today—normally we do not have to—so just push the button when you speak and then push it when you are not speaking.

SAULT STE MARIE AND DISTRICT LABOUR COUNCIL

Ms Faught: Thank you. Can you hear me? I have had laryngitis for a while. I have been trying to save my voice for this committee, but unfortunately it is still rather rough.

0920

I want to welcome you to Sault Ste Marie. My name is Donna Faught and I am president of the Sault Ste Marie and District Labour Council.

If you should hear any loud bangs, no one is shooting at this committee. It is the balloons that are bursting up on the ceiling. We want this committee to go back to the Legislature and to bring our message, so do not worry about any loud bangs.

I represent some 80 unions with approximately 10,000 members between Wawa and Blind River. We welcome this opportunity to address this standing committee on our concerns about the pending amendments to Bill 208, which deals with the Occupational Health and Safety Act.

This is your seventh hearing in the month of January, and in February you will be participating in 10 more hearings. Thus, for us to quote statistics would likely be a repeat of the many you have heard before and will be sure to hear again. The statistics, however, probably do not portray the true picture of what is happening.

In office settings, mental breakdowns and suicides caused by stress on the job are not likely listed in the stats. In October 1979 the act came into effect, and since then more than 2,500 workers have died on the job in Ontario. This figure, however, we are sure, does not include white collar stress-related deaths. So that figure of 2,500 workers could be increased by many more.

We understand that Bill 208 provides a number of steps forward. We commend you for that, as the 1990s should be a time for going forward, and every life saved by progressive wording in our health and safety act reduces the pain and loss that is suffered by many families of accident victims.

Some of the weaknesses that should be addressed are as follows: Public sector workers are limited—for example, the health care workers—or are exempted—for example, the police, the firefighters and the correction officers—from the individual right to refuse and the right to stop work.

As this committee is aware, I am sure, a young Sault Ste Marie woman was murdered in a group home—

Interruption.

Ms Faught: It is all right.

As this committee is aware, I am sure, a young Sault Ste Marie woman was murdered in a group home in Midland by one of the residents. She should have had the right to refuse to work alone in a clearly dangerous situation. We do not believe that these trained people would ever abuse the right to refuse. We wonder what the stats are and how many rights to refuse by any workers have been found to be frivolous.

The right to stop work can be started by the management-certified member. Does this mean that the management-certified member is more qualified and knows more than the worker-certified member? Since both are certified, they should be on an equal footing. Unless they can reach a reasonable agreement on the situation, then an inspector must be called in before the stop-work is cancelled. I do not believe that management should be allowed to stop this work refusal.

Workers affected by a right to refuse are not paid. Though the person who issues the work refusal is paid, the other workers affected are not. In this particular type of situation, workers should not be worrying about loss of wages as well as their own personal safety while unsafe work conditions are being corrected.

Farm workers are excluded from coverage, and with the many advances in farming, knowledge regarding the chemicals in pesticides is now coming to light. Why should farm workers not have the same right to refuse as other workers in Ontario?

Workplace inspections should be done on a monthly basis so that work refusals can be avoided. A safe work environment eliminates a lot of stress that goes along with the job. This inspection done monthly can correct any unsafe situations that would increase our Workers' Compensation Board case load.

Bill 208 only requires a response to committee recommendations within 30 days. A quicker response time of at least seven days, unless a mutual agreement can be agreed upon, would be

more in line with eliminating workplace dangers.

No worker should be assigned to a job that has been refused until the refusal is resolved. Many probationary workers are especially intimidated by employers as their jobs could suddenly be eliminated if they were to refuse while on probation. Heavy fines in this case should be the penalty, as workplace safety for inexperienced workers should be utmost in the minds of our government leaders.

Any worker or certified member should at least be allowed an appeal system before he is decertified. It seems quite unreasonable to assume that worker-certified members will never make mistakes. However, only after a gross abuse of shutdowns should anyone be penalized. One should ask oneself in this case, are workers allowed to charge employers and sue them for negligence and noncompliance with the law? I hardly think so. Then why should the certified workers be penalized?

Workplace health and safety agencies should be bipartite, not tripartite. Perhaps a mediation process can be established when the two parties cannot reach agreement. However, it seems to us that labour and management have the same concerns and they have always sat down and tried to reach something mutually agreeable.

The restriction on the individual right to refuse unsafe activity, that which causes "immediate" or "current" danger, is a big step backwards. With computerization becoming a larger part of every type of industrial or clerical workplace, poor design or ergonomic problems that lead to long-term strain injuries, such as a compound computer type injury or carpal tunnel syndrome, should be addressed in our right-to-refuse legislation.

This type of hazard can be eliminated if the proper definition of "activity" includes repetitive actions that could lead to repetitive strain injuries. We are sure if this particular health problem were brought to light the statistics would be astounding. However, this type of injury does not often get listed as a WCB case because employees merely use their sick time allotment for time off. Often a proper computer desk can eliminate this problem.

Now, I in particular can really relate to this because I work in a credit union here in Sault Ste Marie. We have a very small contingency right in the Sault district, with three branches of the Northern Credit Union here. In the Northern Credit Union we have two cases right now, and a possible third case, of the carpal tunnel syndrome. Now, these were never directly related to

the workplace, so they took their sick time off. We did investigate it, but of course there are always the other mitigating factors, so they are never classed as WCB cases. But I think if you took a look at it and took a look at where the computers were and at the terminals we work on, it would all be related. But it is a hard type of case to prove, so there are a lot of advances that have to be made in this particular area.

When you consider that two out of, I think we have, about 33 bargaining unit people here in Sault Ste Marie have had particular operations in regard to this syndrome, it should make an impact in our statistics. However, we will not see them in WCB statistics because they use their sick time.

There are other flaws that will be addressed in the briefs to follow. However, if this committee were to seriously listen to only half of what you hear, you would realize that your recommendations coming out of these hearings should strengthen the language in the Occupational Health and Safety Act and not weaken it. Increasing fines for employers who do not comply with the act would be another way of showing the people you represent that you care about their safety.

The education of all workers, organized and unorganized, is another aspect that should clearly be addressed in the act. Some small businesses are literally killing their employees because of their ignorance regarding health and safety values. More inspectors to these work sites could eliminate a lot of long-term chronic illness caused by employer-employee ignorance.

0930

Education of health and safety and the legislation should be started in our school system. Our high school students are often subjected to unsafe work practices due to lack of knowledge on their part and intimidation by their peers. An example of this would be attendants at gas stations or variety-type stores who disperse propane gas. They should have special training. How many of them are even aware of this? Not many, I am sure.

My son happened to be one. In this case, he worked at a place. He was given training, after I looked into it. However, how often do these high school students at work at these little stops know that they should have the proper training? Education in the high school system is certainly a must in this area.

This brief, as well as the many you will hear later on today, touches on different flaws in the bill. Please listen to them all and help strengthen

them, not weaken our health and safety act. The government in turn will save money by, hopefully, decreasing the numbers of Workers' Compensation Board cases.

Back in November, when our labour council decided to submit a brief, little did I suspect that one of my family would be included in these workplace death statistics. But very shortly thereafter, in the month of December 1989, my cousin, Howard Fasanello, a 21-year-old miner in Wawa was crushed by tons of rock falling on him. Who was to blame? The company, or was it just a plain old accident that could not be prevented, or was it Howard's fault? Well, an upcoming inquest will likely decide that. But what of my Uncle Howard, my Aunt Betty, my Momma Connie and the rest of my family? This loss has caused a void that can never be filled.

So far, to this date—I was speaking to my uncle yesterday and he does not know I am appearing today—he did not know what had happened to his son. I understand that he will be going up to the inquest in Wawa and there the details will come out and I will find out then, but we still do not know why this young man is dead today. My Uncle Howard had two sons, Howard and Eddie, and now he has only one. Somehow, if our legislation can help stop workplace deaths, then we must do that. You as our leaders and the people who are going back to the government must say this message to your peers.

I only hope that you who sit on the standing committee never experience such a loss of a beloved one. I ask that the standing committee strengthen, not weaken, our health and safety act. Only with your recommendations will our workplaces become safer and our workers' lives have the value that a human life should have.

The Chair: Thank you, Ms Faught. Before we go on, could you introduce the people with you, for the record?

Ms Faught: On my right I have Linda Jolley and Sharon Graham. Sharon Graham is here on behalf of the Sault Ste Marie and District Labour Council and Linda Jolley is my backup, in case you people get a little too technical for me.

Mr Wildman: First, I want to thank you, Donna, for a very heartfelt presentation and I express the hope that, as members of the committee, we will listen to all the briefs, not just half of what we hear.

I have two questions that centre, first, on the right to refuse, and then on the amendments to the original bill that have been suggested. You referred to the Sepp case, which is well known in Sault Ste Marie and area, and the fact that this

individual, if she had had the right to refuse to work alone in what was a hazardous situation, might not have died. You also pointed out that the right to refuse has not been abused. That has been agreed to by the ministry and labour and management before this committee.

Could you explain a bit why you think not defining "work activity" adequately is, as you said, a step backwards, in other words, would provide less protection than the current act? Is that what you are suggesting?

Ms Faught: I was under the impression we did have "repetitive action." The amendments would water this right down. That word would be taken out of there and we would have "immediate danger." Immediate danger and repetitive action: what is immediate to one person may not be immediate to another. There are a lot of things I do not find immediate that perhaps Sister Graham might find immediate.

When you have a word like "immediate," you have a definition of that and then you could be into the mediation process of what "immediate" means. You see that in negotiations all the time, the definition of a word. If you have "repetitive," it is pretty hard to debate what "repetitive" means. If you are continually on a computer, you are repetitively doing that particular work on a steady basis and if you get carpal tunnel, then you know what it is from.

Mr Wildman: Right. Thank you very much. Certainly your sisters and brothers from Elliot Lake will know what immediate danger means when having to define when a person should be able to exercise his or her right to refuse.

Did the labour council take a position with regard to Bill 208 when the former minister, Greg Sorbara, introduced it? Do you as a labour council support the improvements to Bill 208 that were originally proposed in the legislation?

Ms Faught: Yes, we do. Nothing ever goes far enough when it comes to a worker's health and safety, so although we did approve of all the improvements, we of course always hope for more. The more strength in the language the better it is for us, but we certainly approve all the amendments; I am not not saying every single one of them, but the bulk of them.

Mr Wildman: It is your view that as a committee we should pass the legislation as introduced by Greg Sorbara without the amendments introduced by the new minister, Gerry Phillips.

Ms Faught: That would probably be a better idea than doing it with the amendments that are coming on board.

Mr Wildman: I appreciate your presentation.

Mr Fleet: Ms Faught, first of all, I want to say that it is a well-presented brief. Obviously, in a couple of instances you have referred to your own experiences and I, and I think all members of the committee, take quite seriously your admonition that the object of our exercise is to try to have legislation that will ensure not only fewer deaths but fewer injuries in the workplace in Ontario. With respect to the inquest, obviously we do not know either, but our hope—I am sure I speak for all sides on this—is that whatever the cause was we are going to learn more in order to prevent a repetition of whatever the cause.

I would also like to deal with something you mentioned because of your own work, and it was also covered in part by Mr Wildman, about a repetitive strain injury. This is something I have had an interest in, as we have been hearing various witnesses.

The current act, the Occupational Health and Safety Act, provides that workers can refuse work if, for instance, the machinery is likely to cause an injury or is likely to endanger the worker. That is the kind of language that is used there. Bill 208, as it was printed, proposes a clause that would allow for a refusal if the work activity the workers are required to perform is likely to endanger the worker or another worker. The amendment that was referred to, as I understand it, would essentially add the word "imminently," so it is something that is going to imminently endanger the worker.

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The problem you talk about, where there is repetitive strain, I take as a serious and legitimate problem, but as I understand it something such as carpal tunnel syndrome arises after a period of time. I am not sure how long, but it is some years, presumably, or some long period of time. There is a different sense, as I understand the way those kinds of injuries are likely to occur. It is not as if, if you do not move immediately to get out of the way of a falling rock, you are going to have a death or an injury take place. It is not something that stopping that instant is the thing that necessarily is going to stop the accident or the injury, but rather it is, over a period of time, to make sure that if the workplace has to be reconfigured somehow, that takes place.

I wonder if you can address the difference in the way the problem arises and the way the problem would ordinarily be solved. Are you saying the wording in Bill 208 is the only possible solution or do you have a sense that there is some other way that the process of making sure

the workplace is properly designed and that kind of thing could be addressed by either this legislation or some other legislation, or by some other process?

Ms Faught: If I am answering your question rightly, I believe that if this wording about the repetitive action is in Bill 208 that would sort of force the employers to get the proper computer desks, the proper facilities for their people. Most tellers in financial institutions do not have proper workstations. This is usually caused by the economic factor. If Bill 208 had that particular language in there and people were a little bit more knowledgeable and educated about the proper designs, the number of cases of that type of injury, carpal tunnel syndrome, would probably go downwards.

I doubt very much that too many of these carpal tunnel syndrome injuries would become WCB cases, as stated in my brief, because usually people would use their sick time.

One of the women who had this particular operation also has arthritis, so they could say it was part of an arthritic factor, you see. If Bill 208 has that particular language in it, it would strengthen the employee's right to have a proper workstation, if they had some examples to cite and if they had some strength in the wording rather than "immediate," because "immediate" is a strange word and "repetitive" is much better."

Ms Jolley: Could I add one thing to this as well? I think that when you look at a chronic long-term situation such as a repetitive strain, no, it does not occur immediately, but we also have chronic long-term exposures to toxic substances in our workplace and we certainly have the right to refuse if the exposures are going to create even a long-term hazard. If they are over the exposure limits, we have a right to refuse, to protect our health from these long-term chronic situations.

The other thing I would like to raise with the committee is that the United Steelworkers in Sault Ste Marie actually appealed, through District 6 of the Steelworkers, to set up a regulations committee for the industrial safety regulations that would actually address ergonomics in the design of all our workplaces. To date, the employers have refused to participate in that committee and we have had no committee set up, so we are faced in these situations, whether it be in an office, a hospital or on an industrial work site, with no regulations to which we can appeal to make our employers actually redesign the workplace. A right to refuse would create the incentive for them to clean up and to redesign our workstations.

Mr Dietsch: I have a supplementary. With respect to the ergonomic approach to some of the different workstations, etc—I too have an understanding for the kind of thing you are talking about—as I understood the minister, in his speech in relation to the suggested amendments he was making he indicated that the joint health and safety committees would be charged with that responsibility of looking at the individual work sites and trying to develop methods whereby they would get away from those long-term repetitive strain types of motions. Do you feel that is a step in the right direction?

Ms Faught: It is a step in the right direction if you happen to have a joint committee, but that does not always happen in financial institutions.

Mr Dietsch: For certain.

Ms Faught: Perhaps there are two institutions in Sault Ste Marie, and right now I am training my health and safety representative. I would sit on that committee myself. You are looking at a lot of unorganized people when you talk like that and they do not have these joint committees. If you are big like Algoma Steel, you do, but not the little ones.

Mr Dietsch: Under the proposals under the bill, it is proposed that an additional 20,000 work sites will have those joint health and safety committees, so I think that is a movement in the right direction certainly.

Ms Faught: I hope so. I just hope that the employers are going to agree, but I can hardly see them paying—number one, you have to have trained employees.

Mr Dietsch: Yes.

Ms Faught: We had a hard time getting training in the workplace hazardous materials information system.

The Chair: Ms Faught, thank you and your colleagues for your presentation, a very good presentation. We appreciate it.

The next presentation is from the Sault Ste Marie Construction Association. Are Mr Thomas and Mr Avery here? We welcome you to the committee. Perhaps you would introduce yourselves. Be seated and be comfortable. The next 30 minutes are yours.

SAULT STE MARIE CONSTRUCTION ASSOCIATION

Mr Thomas: My name is Rick Thomas. I am the manager of the Sault Ste Marie Construction Association. This is Jeff Avery, the manager and president of Avery Construction and the president of our association.

First of all, we appreciate the opportunity to meet with the members of the resources development committee today to talk about an extremely important piece of legislation, Bill 208, amendments to the Occupational Health and Safety Act.

This brief is submitted by the Sault Ste Marie Construction Association, which represents 161 construction industry employers in Sault Ste Marie and area. Our association is a member of the Council of Ontario Construction Associations and our management and members actively support and regularly participate in the Sault Ste Marie regional labour-management health and safety committee, a program under the sponsorship of the Construction Safety Association of Ontario.

I want to depart just for a moment, if I can, from my written remarks. I noted with interest Ms Faught's comments earlier related to the design of a workplace. One of the large efforts of the construction industry, in conversations with you gentlemen, not only on this piece of legislation but with every piece of legislation, is the attempt we are making to demonstrate and determine that our construction industry is truly different in many areas from any other one.

The comment I want to make is that Ms Faught quite rightly is searching for a design of a workplace that will assist in promoting a healthier and safer workplace, but our construction industry workplace design changes minute to minute and hour to hour. We do not have that advantage.

If I can go on, the role played by the Construction Safety Association of Ontario, CSAO, through its regional labour-management safety committees and many other products and services, is vital to the localized construction industry in a region such as ours. Regular monthly meetings are held and attended by from 16 to 24 persons who locally represent management, the construction client and the Ministry of Labour, people who are directly responsible for monitoring and implementing safe construction workplace practices.

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Co-ordination and implementation of safety-related training programs, ranging from WHMIS through health and safety representatives training, as well as specialized programs related to rigging and traffic control, are regularly resourced and completed through the mutual efforts of committee members.

As an example, recently representatives of the Algoma Steel Corp introduced into their plant a comprehensive safety procedure that relates to

the safe use of elevated work platforms. This procedure is in use at Algoma currently and has been introduced through the committee to individuals and companies involved in the rental and operation of these devices in our industry locally. All of this is occurring prior to efforts to change and revise the Occupational Health and Safety Act regarding safe use and operation of portable, elevated work platforms.

Our industry association is accountable, progressive and it allows participation of the workers. It has achieved significant safety results. You only need to examine the clearly improving safety record of our industry in terms of the number of injuries per 100,000 workers and the total number of fatalities to see that we are indeed doing something right, this in a time period when our industry workforce, locally and throughout the province, has grown faster in the past year than at any time in the past eight years.

Any reduction in the local involvement of the CSAO through the insertion of another layer of bureaucracy, as suggested through the safety agency, to be financed directly by contractor-contributed WCB premiums will jeopardize our existing progress and threaten our members' ability to help achieve the common goal of a safer workplace for everyone.

The two driving forces behind improving safety records in our industry are the CSAO and the co-operative labour-employer approach to work-site safety management.

The concept of creating a class of specially trained workers to act as safety police on the job site is an insult to the improving safety record of the construction industry. That record continues to improve—

[Interruption]

The Chair: Order, please.

Mr Thomas: That record continues to improve because each person on the site, from tradespeople through supervision and management, is aware of and should be aware of and involved in completing each workday safely.

Certified worker status is a direct affront to the basic belief in our industry that safe workplaces exist because every person in them must be trained to be aware of dangerous situations and work practices around him and be trained to respond to these situations with his personal safety foremost in his mind.

We feel that the principle of developing a pool of certified workers to be salted throughout projects is undesirable and without merit. It infers that safety responsibility rests with the elite, reducing the pressure on individual work-

ers to be educated in their safety matters, to learn to recognize current dangers and to meet their responsibility. It presents the danger of overreaction or underreaction to safety issues, based on overestimation or underestimation of knowledge of specific circumstances.

Finally, it reduces accountability from the truly responsible specialists in management and at the Ministry of Labour. Through increased training and awareness all, not a few, workers will learn to recognize current dangers and be informed about their existing rights to refuse unsafe work instead of relying on one or two certified workers to ensure their safe work practices.

It is inconceivable to us that a single person could be so completely trained in all aspects of the construction site that he would be able to fulfil his personal tradesman duties as well as function as a certified health and safety worker as set out in the ministry model.

Surely the highly trained and diligent Ministry of Labour health and safety branch inspectors, whose current responsibility it is to ensure safe work practices and with whom the power to issue stop-work orders rests, are the rightful keepers of that power. It belongs in their hands because of their training and expertise, and the right to refuse work that may be dangerous belongs in the hands of each worker on a personal basis as it does under the current legislation. We urge you to reconsider proposals to create certified workers with the power to close down an entire construction project.

The construction industry and the Sault Ste Marie Construction Association are for the highest possible work-site safety and worker health. We are willing to accelerate this process in which we have been leaders. We ask that this not be done in an autocratic or paternalistic fashion, but by continuing the unique processes developed and flourishing in this singular industry. Only in this way can we maximize the safety of our workers and the economic health of our businesses in the province.

The Chair: Thank you very much for your presentation. I would just say once more, as I said at the beginning, that when people are making a presentation it is simply not appropriate to harass them. They are here at our invitation. We want them here and we want to hear what they have to say. We would not allow you to be heckled by them.

Mr Wildman: Could you indicate how many deaths occurred in construction in the province

last year and how that compares with the record over the last five years?

Mr Thomas: I cannot give you the last five. Fatalities in construction in 1989 were 35. In 1988 there were 39 and in 1987 there were 42. I have just the last three years. So they have decreased about eight per cent or nine per cent from 1987 to 1988 and fully 10 per cent from 1988 to 1989.

Mr Wildman: So that 10 per cent works out to four people?

Mr Thomas: That is right.

Mr Wildman: So you have lowered the number of deaths across the province by four, and that is the record you are defending.

Mr Thomas: Yes. One is too many.

Mr Wildman: Exactly.

Mr Thomas: I think 35 is better than 39.

Mr Wildman: I have two questions in regard to your views about what you refer to as safety police and an élite worker. No matter how the act is to be implemented, surely nothing takes away from the responsibility of every worker and every member of management to do everything possible to ensure that the work site is safe. So I do not understand how your view that somehow we would be creating an élite would take away from the responsibility of each individual worker to work safely.

Mr Thomas: We have demonstrated that what we are trying to do is to improve the level of education of everyone on the job site, and we fear that with the introduction of someone with specific élite powers, there will be a reduction in every individual's personal feeling; in other words, an abdication of his responsibility to that person. Second, we fear that when those people are educated, they may take resources away from our effort to educate everyone on the job site regarding safety.

Mr Wildman: I understand your view that everyone should be trained and I support it. However, I do not think having someone who is responsible for inspecting the job site and is trained to do that in any way takes away from the responsibility of the worker to himself, to his family, to his co-workers and to management to work safely on the job.

Mr Thomas: We feel that with the assumption of that leadership role in the area of safety, people will look to it as opposed to themselves.

Mr Wildman: I have two other questions. One, you refer to the Construction Safety Association of Ontario, CSAO, and you believe

that should remain the main agency without—I think you called it—another layer of bureaucracy.

Mr Thomas: The superagency.

Mr Wildman: Could you indicate whether or not labour is properly represented on the board of directors of the CSAO?

The Chair: Can we make this your last question, because there is a long list of members who want to talk.

Mr Thomas: Labour does not feel it is properly represented now. There are two kinds of labour, organized and nonorganized. We do not support a 50-50 CSAO board from the standpoint of unionized labour representation only, because it will eliminate roughly two thirds of the representation of the people in our industry. Two thirds of the workforce in the province is not unionized, and those people will not have any access. They do not have a lot of access now.

Mr Wildman: Currently, unionized or non-unionized, there are 13 directors representing labour out of a total of 100. Do you consider that a proper representation for the workers?

Mr Thomas: I have no comment on that.

[Interruption]

The Chair: Order, please.

Mr Thomas: That has been an agenda item at CSAO for a long time. There is no question about that issue being discussed in depth, with far more issues related to it than simply the number of people involved. How they are involved and how they participate is a very large part of it. I can assure you, as I said, that that issue is being dealt with at CSAO's board meetings.

Mrs Marland: Mr Thomas, I am sitting over here. I am a Progressive Conservative member. I just want to tell you that I have not joined the government. I do not think the boos in the audience know whether we are supporting or opposing this bill, so the boos are to be ignored at this point.

I want to ask you, since you are speaking for the construction industry and solely for the construction industry—

Mr Thomas: That is correct.

Mrs Marland: —you have addressed the fact that two thirds of the labour force is nonorganized, unorganized, nonunion. How in your business particularly could you see it even possible to have certified workers on your sites with so many subtrades coming and going all day long?

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Mr Thomas: You are right. It is impossible. It is not just subtrades, it is the size of the site and the number of people. There are contractors in the room here today who may have four job sites going and 10 people in their employ covering four or five job sites, plus somebody in the backyard, and one carpenter will work on every one of those job sites today in one fashion or another. So it is extremely difficult.

That is why we support, particularly for these small companies, the need to take that carpenter and educate him properly about how to work safely, so he will work safely everywhere and not worry about finding another person to look over his shoulder while he is on every single job site he goes to. That person may well be a pipefitter. A pipefitter knows nothing about what that carpenter has to work safely with. Pipefitters, electricians and carpenters do not get along any better than my children on most job sites.

Mrs Marland: Can you give me an example of approximately how many subtrades you might have working on a construction site? Eight or nine?

Mr Thomas: It could be from two to ten, varying on the size of the job and the type of project.

Mrs Marland: So you could have that many different ones?

Mr Thomas: Different tradespeople with their own responsibilities in terms of how—

Mrs Marland: How to work safely.

Mr Thomas: —how to work safely and how to build whatever they are building. And it will change, as I said, in an hour. There will be a different safety hazard that did not exist before.

Mrs Marland: The hazards to those individual tradespeople are very specific to their individual trade?

Mr Thomas: In many cases. There are general hazards but—

Mrs Marland: No, I meant individual hazards that would require a specialized understanding of what their trade was about.

Mr Thomas: Of their individual work practices. There is no question about that.

Mr Fleet: I want to thank you for your brief and the time you have taken to come here.

There are a couple of points I wanted to touch on. One is the notion of there being somehow an élite safety police. I think that was the kind of language you used. I must tell you that there is nothing in the bill which takes away from the responsibility of individual workers to be cogni-

zant of safety concerns in the workplace. The notion of it being an élite, the proposal for certified workers and what not, I really do reject. I just do not see that as being applicable in the least.

Mr Thomas: We fear an erosion of an individual worker's personal responsibility.

Mr Fleet: This bill is designed to provide, and I believe it does, an additional layer of effort. It involves an additional layer of education. If you are going to have additional layers of education and training, the evidence this committee has been hearing is that for the most part that is highly desirable.

There is one other aspect specific to the construction sector that I would like to ask you about. The bill currently provides for certified workers on construction sites where there are 20 workers on a site that is lasting for three months, and there is a proposed amendment to go to 50 workers and six months. I am interested in knowing what impact going to 50 and six would have, particularly in the Sault Ste Marie area.

Second, which of those variables is the more significant one? Is it more significant in terms of the number of sites because of going from 20 to 50 workers, or is it more significant going from three to six months in terms of the duration of the job site?

Mr Thomas: The impact of that change is minimal locally. I think the provincial statistic is that about 75 per cent of the job sites will not have certified workers if that level changes from 20 and three to 50 and six.

Locally speaking, we do not have a large number of projects that approach the 50 people-six months situation. We happen to have a few going now that are probably a rare occurrence. The majority of the projects that we are involved with are of very short duration and have very small numbers of people on them. That is what makes it so difficult for us to be in favour of this certified worker situation, because it simply will not help us. We need those resources that will be dedicated to that program to increase the level of training and safety in all the people who work on all our job sites.

Mr Mackenzie: Mr Thomas, I have some difficulty in understanding why your organization, which has been probably the most vehement before this committee in all of the hearings and certainly led the lobby to the Premier (Mr Peterson) directly to change this bill and to bring in the amendments that were brought in, is so all fired up about this when most of you are simply

not going to be covered under the figures that are in the bill to begin with.

It is certainly an issue that bothers workers generally; it is certainly an issue in which at least the organized construction trades are not on side with you. Why this tremendous campaign that the construction association, the builders, have organized to get in the first place the government to bring in the amendments it is suggesting and to oppose this bill?

Mr Thomas: I do not understand your question. Sorry.

Mr Mackenzie: If most of you are not going to be covered, why the fantastic campaign of the construction industry against Bill 208?

Mr Thomas: We will be covered. This is a revision of the Occupational Health and Safety Act that applies to every one of our workplaces.

Mr Mackenzie: The figures run from 75 per cent to 90 per cent of the sites at least that will not have a certified worker on—

Mr Thomas: —by the certified workers' statistics. As I said, we are concerned that the use of that program and the creation of that group of people will erode the opportunities that we have and the efforts we are making to educate everyone, not just a few people.

Mr Mackenzie: Let me then just expand on the same question. The building tradespeople have told us very clearly, in their briefs—I am talking about the organized trades now—that they support this bill totally, are not happy with the CSAO makeup. The last major fight I was involved in went on for months and that was over construction workers in Darlington being required for months to use bellyhooks rather than extended scaffolding. I had to threaten a shut-down before they could solve that problem.

Yet we get briefs from your people, when you say you are interested in getting all of this training—yours was not quite as nasty, but let me tell you—Niagara, for example, says, "The Niagara Construction Association believes that a unilateral stop-work right as proposed is unnecessary, damaging, creates potential for manipulation by unscrupulous workers and does not necessarily improve worker safety."

Mr Thomas: I agree with it.

Mr Mackenzie: Where is the positive side in your whole campaign? You are saying to the government, "Don't move on this." You have been influential in getting the Premier to have the amendments brought in that gut this bill, yet most of you are not even going to be covered.

Mr Thomas: I do not believe that generally the unscrupulous worker argument is appropriate. I did not include it in my brief because of that.

Mr Mackenzie: Every other one of the construction groups that met before us, associations, made the same kind of references.

Mr Thomas: In 1986, Commonwealth Construction Co—

Mr Mackenzie: Verbally. You go back to the transcripts, my friend.

Mr Thomas: Commonwealth Construction Co discharged three electricians specifically for being disruptive in the workplace regarding health and safety legislation. That case went to the Ontario Labour Relations Board and the board upheld the dismissal of one of those people and converted the other two dismissals to suspensions. There are unscrupulous workers, and I do not care to sit here and make a point about them because they are not in the main.

[Interruption]

The Chair: Order, please.

Mr Mackenzie: As you have just pointed out, if they are unscrupulous, action can be taken. Why should we tie up the whole labour movement with the denial of this particular legislation?

Mr Thomas: It does not fit our workplaces conveniently. It does not help us. We work together and we have an excellent record of working together to solve this safety problem.

The Chair: Thank you. I am having great difficulty with harassment of the witnesses. I will say it again, we invited these people here to make a presentation. You surely do not expect everyone who makes a presentation to agree with you. We expect to have differing views; that is why are holding public hearings. If there were not differing views, we would not have to have public hearings. It really is not fair to people making presentations to harass them. I would ask you to cease and desist. It simply is not appropriate and not only that, we simply cannot allow it. We do want to have public hearings.

Mr Wiseman: Just seeing some of the people who are here today who were with us on Tuesday and were some of the hecklers on Tuesday, I think you know who they are, Mr Chairman. You could ask them to leave if they continue to do it.

Mr Wildman: On a point of order, Mr Chairman—

The Chair: Before we get into an unnecessary wrangle here, let's not provoke people any more

than they are already provoked by the debate that goes on around this bill. I am quite serious when I say we must respect the right of witnesses to make appearances without being harassed. I would not allow you to be harassed and I would ask you to respect that right for other witnesses. I do not think that is asking too much. Mr Dietsch is next.

Mr Wildman: I would just like to make the point that the vast majority of people in this audience are people from Sault Ste Marie and Algoma district who are here interested in this bill, one side or the other.

The Chair: Yes, but that is not a point of order.

Mr Dietsch: In relationship to your presentation and the safety programs that you have indicated to us this morning that you have implemented, could you tell the committee who on the job site is responsible for health and safety currently?

Mr Thomas: For programs that originate through the labour-management health and safety committee, all of the parties to the job site are usually present at those meetings. So it is our hope that, for example, in that elevator work platform situation, that the business agents that meet at that committee meeting will take those thoughts and proposals back to their people, that the management people who work with that committee will go back to the workplace and implement them, with the co-operation of the people involved, and that the Ministry of Labour inspectors who have to make job site inspections of the practices regarding, as again the example, elevated work platforms, will look to the procedures in place to determine and make their recommendations regarding the act, but I think "everyone" is the answer. Everyone has a stake in it.

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Mr Dietsch: It is my understanding that there will be a great increase in the training of individuals in the workplace and, in particular, in the construction sector.

Mr Thomas: We certainly hope so.

Mr Dietsch: The unions that have been representing the construction sector have indicated that they feel they have an ability, if you will, to allocate trained, certified people to the work site. The question I have for you is, do you feel, from a management perspective, that you can allocate trained individuals to the work site, or are all your management people trained?

Mr Thomas: I think we do every day. I do not think that we have standardized systems or levels of training, but I think that every company that works safely would not be safely working if it did not have trained people exposed to the job site. Now, they may not be as highly trained as they should be or as highly trained as they will be in the future, and I am sure that all of the workers are not, but we are searching for greater levels of training for people, all people.

The Chair: Thank you for your presentation.

Mr Thomas: Thank you for your time.

The Chair: The next presentation is from the Canadian Paperworkers Union, Mr Jourdin. Is he here? Mr Jourdin, we welcome you to the committee this morning. If you would introduce yourselves, the next 30 minutes are in your hands.

CANADIAN PAPERWORKERS UNION

Mr Jourdin: I am Brad Jourdin, president of Local 67 of the Canadian Paperworkers Union, and this is my second vice-chair, Joe Della-Savia.

Locals 47, 67, 69 and 133 of the Canadian Paperworkers Union represent nearly 600 employees of St Mary's Paper here in Sault Ste Marie. We are a close-knit community which has survived in good times and bad. When one of us is injured at work, it affects many of us, both personally and economically. We believe we speak for the entire community when we say that health and safety at work should be one of our government's very highest priorities.

In saying this, we realize that much of our society is built on the profit motive; most societies are. That does not make it right, especially when the pursuit of profit injures people.

Many people do not understand that once you go to work, you lose a lot of rights that you enjoy outside of work. For example, if someone punches me on the street, he can be arrested, fined and even put in jail. But if my employer deliberately exposes me to working conditions that assault my body every working day, he usually gets away with it. If he is caught, the worst that normally happens is that he is told to stop.

In this province, in this city, a very large number of workers are forced to endanger their health in order to earn a living. They have no real choice, especially where the danger to health takes a long time to be obvious. With a family to feed, you are not going to refuse a well-paying

job, even one in which a lot of workers have been injured.

The fact that over 500,000 workers reported work-related injuries to the Workers' Compensation Board last year should leave no doubt that we have a problem. Imagine if there were 500,000 car accidents per year in Ontario. Would that not persuade us to lower the speed limits a bit? This is the basic problem with Bill 208. It adds a few more traffic cops but it does not lower the speed limits. Employers are still allowed to push the limits of workers' bodies as much as they can. They can only be forced to stop pushing once it is clear that the limits have been reached, when the bodies start piling up too high.

When we speak about the bodies piling up, we do not just mean those workers who have died in workplace accidents or from industrial diseases. It is a tragedy to die before your time because of something that could have been prevented, but it is also a tragedy to be crippled or have your life forever changed for the worse, or to live in pain, because of something that could have been prevented. We know of men and women in their twenties and thirties who will probably have to live 40 or 50 years with a permanent disability which could easily have been prevented through better occupational health and safety laws.

Absolutely everybody agrees that there are too many work injuries in Ontario. Everybody agrees that something must be done, except if that "something" means spending more money. At that point, the government and employers try to persuade themselves that the problem can be solved with more committees and more rights, which are difficult to enforce.

The government has publicly admitted that it has no intention of hiring enough inspectors to enforce the law meaningfully. Over 100,000 workplaces were not inspected at all last year, which is more than 60 per cent of the total number of workplaces in this province. Instead, it continues to cling to the internal responsibility system, which must be blamed for the documented rising number of deaths and disabilities on the job.

Even the official figures, as bad as they are, do not tell the whole truth. Many of our members' work injuries are hidden by private insurance or classified wrongly as no-lost-time injuries because our employer often calls us in to work at sitting in a chair all day when we should be recovering at home or be in therapy. It is cruel to force disabled workers to watch others work and display their disability just to save money on WCB premiums, yet we know this happens

everywhere and not just here. Bill 208 does have a lot of merit, or rather did have a lot of merit until the government caved in to business.

For example, the Minister of Labour (Mr Phillips) has said that the right to stop work should not apply to good employers. This means employers with good safety records as defined by the government, but there are a lot of employers who have good safety records which they do not deserve. They are just hiding their mistakes.

Another example is the minister's intention to allow workers to refuse unsafe work activities only if there is an immediate danger. Most people would take that to mean that you can only refuse work that is very likely to injure you or another worker. Why does it have to get to that point before you can protect yourself? Record numbers of workers are being injured, many permanently, by working in jobs that are no "immediate" danger to their safety but are still likely to injure them over time.

This is a serious backward step. Under the present act, we have the right to refuse such work, a right which has been upheld by the Ministry of Labour and the Ontario Labour Relations Board. We now will lose it and what little progress has been made in the huge area of repetitive strain injuries will be lost.

Another backward step taken with Bill 208 is the stated right of the worker who refuses unsafe work to 100 per cent of wages during the first stage of the refusal process. There could be no clearer signal from the government that this means wages will not have to be paid during the second stage. After all, there was no need to put this in the law. As we understand the present act, we could not be penalized in any way for a legitimate refusal to do unsafe work. And since a loss of wages has been upheld as a penalty, for years we have had the right to 100 per cent of our wages during both stages of refusal. Now, by default, this right is being taken away.

1020

We also object to the fact that the workers do not have the right to be paid if their employer's violation of the law causes a work stoppage. This is another example of the workplace law being very inferior to civil law. Why should workers have to choose between working in illegal, hazardous conditions for pay or not working and not getting paid? What kinds of rights are these?

If an employer penalizes a worker for exercising the right to refuse unsafe work, what happens? We know what happens. In the unlikely event that the employer is caught and found guilty, he has to make good the worker's

loss. To a gambler, this is a sure bet. If I win, I keep the money. If I lose, I will have to pay what I should have paid in the first place.

We believe some serious prevention methods are justified. Employers should be prosecuted for violating workers' rights and fined substantially if they are found guilty. We know that many employers would not knowingly violate workers' rights, just as many people would not speed on the roads. But stiff fines and other penalties are still needed to keep down the speeding and the same is needed to encourage compliance with so important a right.

Another important area of concern for us is the right to inspect the workplace. How often do we have to be reminded that an ounce of prevention is worth a pound of cure? Maybe there are banks or offices that do not have to be inspected every month, but that is probably because they are open to the public eye. Our workplaces need to be inspected at least once a month, some parts every day. Because we have a good union, we can demand more and better inspections and we do not hesitate to call the ministry inspector in where the situation warrants it.

But we know that there are millions of workers in this province who do not enjoy union protection and who will not dare press for more than the bare minimum that the law allows. In fact, they will probably not even complain openly if they do not even get the bare minimum. We already know that non-union workers are much less likely to claim compensation for work-related injuries if they know their employers do not like it.

It is too simple to make one formula for inspecting all of Ontario's 180,000 workplaces. While inspections more frequent than once every 12 months can be ordered, remember that over 60 per cent of Ontario's workplaces are not visited by the ministry inspectors even once a year. The frequency of inspections should at least be tied to the frequency of accidents in an industry.

It should not be too hard to find out if more inspections means fewer injuries. Just compare the inspection and the accident frequency rates in businesses which are in the same industry. If such a simple study shows that more inspections equals fewer accidents, the conclusion is obvious.

The paper industry uses a lot of chemicals. The bright white paper on which these words are printed is made possible by powerful chemicals. The chemicals which are used to clean machinery can also be quite dangerous, both in the long term and short term. We think it is irresponsible to

allow workers to be exposed to chemicals which have not been properly or completely tested. According to a study in the United States, 80 per cent of the chemicals used in industry have not really been tested.

A government which sees nothing wrong with this scandalous situation cannot claim to seriously care about worker safety. To use our example of traffic safety once more, it is the law in Ontario that every single car that is sold must meet certain safety standards before it will be allowed on the road. We hope for the day when every chemical allowed into the workplace must also meet safety standards. Probably most of us will go to our graves with this hope—some of us will go to our graves faster, because we worked with the hazardous chemicals.

While we appreciate that the maximum fine for violation of the act is now half a million dollars, we think that this is just window dressing. It probably will only be applied in a situation where gross negligence on the part of the employer has caused more than one fatality.

Right now, the average fine handed out to violators is less than 10 per cent of the maximum allowed. Does anybody here seriously believe that the average fines under the new act will be just under \$50,000? We will be surprised if the fines even keep pace with inflation. They certainly will keep pace with the increase in parking fines in Toronto.

When the government first introduced Bill 208 in early 1989, its white paper said that workers had three basic rights: (1) the right to know what hazards exist in the workplace; (2) the right to participate in decisions which involve risks that affect the worker, and (3) the right to refuse unsafe work.

It is obvious to us that Bill 208 does not give much legal force to these rights. And what legal force there may be is weakened by the lack of adequate enforcement. What we have instead is a lot more inexpensive activity around health and safety. This did not work in the past, so is unlikely to work in the future.

We are very disappointed in this government but not surprised. You gutted the Workers' Compensation Act to make it cheaper for employers who are claiming that you gave injured workers more rights, rights which are difficult to enforce. Please do not think you are fooling us that there is not a master plan to make it cheaper for employers to do business in Ontario. It sure looks like it.

If you saw how we worked every day, you would have to admit that paperworkers are not

against working, and working hard, for a living. It is risky work but someone has to do it. We just do not think that it has to be as risky as it is.

There are alternatives to letting workers die and become permanently injured on the job, and there are alternatives to Bill 208. We hope that you are not so locked into your position that you feel you must ignore those alternatives. You can save lives with good laws. Do not miss this chance to rise above politics, if only for a while, and help make Ontario a much safer place to work.

We thank you for the opportunity to air these views and we hope you will give them serious consideration.

Mr Mackenzie: I have two brief questions. The first is, do you find it as strange as I do that we have twice as many inspectors to protect fish and wildlife in Ontario as we do to protect workers in the workplace?

Mr Jourdin: No, I do not find it strange.

Mr Mackenzie: The second question—it is a serious one—is Bill 208. You dealt with it in the last couple of paragraphs of your brief, that we have finally achieved, or thought we had achieved, as the result of an awful lot of work by labour, the government and management, reaching not an agreement but a consensus, I guess, on what should be in the bill. I think workers in northern Ontario had a lot to do with that, because both the mining industry and the bush or forest industry have been two that have suffered the most over the years and have pushed for health and safety legislation in this province.

We thought we had an agreement, although you would not believe it now from the kind of briefs we have from the management side, but it was involved in better than a year of discussions leading up to this. We got a bill that was presented, which labour was asked to endorse and to sell to its people. With all the reservations about shortcomings in that bill, they did exactly that. Then all of a sudden in the House we have a new Minister of Labour suggesting a number of amendments that will effectively gut the bill. Do you see that as a betrayal of the work that was done by the unions in trying to come up with this kind of legislation with the original promise that was made?

Mr Jourdin: Yes, I certainly do. I think from the union's aspect of it you are right, the original Bill 208 was a bill that we could live with. It was not something that was perfect or that we felt we should endorse completely, but it was something that we could get along with. Now with the new minister coming in place, it seems like they are

just withdrawing everything that we thought was firm in there and everything that we were fighting for seems to be disappearing.

Mr Dietsch: I am curious as to your comments with respect to workplace inspections. I support the concept of additional workplace inspections by the joint health and safety committees because I feel, certainly as you have outlined, it is worth its weight in gold to be able to discover the accident areas and make corrective measures before accidents take place. I think that was very good observation on your part. Do you feel that the people in the workplace are the best equipped to carry out these kinds of inspections?

Mr Jourdin: I feel that with training and education they would be, because they are the people who work in the departments every day. They know the machinery and they know the area. What they need is some education, whether through joint health and safety committees or subcommittees, so that they can educate themselves to pick out a few points here and there. But they are the ones who work in the area every day. They are the ones who know the machinery. I think with that education and training they would be suitable.

1030

Mr Dietsch: You are aware that within the parameters of the bill there is an opportunity to have more joint health and safety committees and inspections of the workplace, a minimum of at least every 30 days, with management to respond back to the joint health and safety committee on corrective actions on the discoveries of the workload, that the joint health and safety committees are in the bill as proposed.

Mr Jourdin: As long as the committees that are put in place are not just something that they are putting down to, "Yes, we have a committee," and yet really the committee is not in effect or the training does not get through to people out on the floor. In other words, if the committees are put in place and they are used and have the inspections every month, that is fine, but I do not want to see committees just from the company's point of view, saying, "Here is a committee," and yet nothing is really done in the workplace.

Mr Dietsch: You are quite right. I think it is important that the people who are going to do those inspections, as you said in the earlier answer to the question, do have that proper training and education to have a knowledge of the working relationship.

Some unions have indicated before us, in different presentations, support for the internal

responsibility system. Actually, some managements have indicated support for the internal responsibility system, but you in your brief do not indicate support. Can you tell me why that is?

Mr Jourdin: I think basically when you have committees put in place, there always seems to be either a superintendent or some other area in the mill that has a dominating factor and seems to override examples or recommendations from committee members. In order to really enforce the health and safety of people, the end result is that you have to call in the Ministry of Labour. In fact, we have had several calls in our mill alone, and I will give you an average percentage of 90 per cent, and every time the ministry came in it upheld the work refusal.

Mr Dietsch: How many work refusals have you had?

Mr Jourdin: Over the past year, I would say nine or 10.

Mr Dietsch: And they were all equitably resolved.

Mr Jourdin: That is right.

Mr Dietsch: Do you know how many Ministry of Labour inspectors there are?

Mr Jourdin: In Sault Ste Marie?

Mr Dietsch: No, totally. When you were answering Mr Mackenzie's question, I believe he phrased his question that there were twice as many, which is not a fact.

Mr Jourdin: Are you talking about the game wardens that he made a comment on?

Mr Dietsch: Yes.

Mr Jourdin: The exact number? No, I do not know, but I know there are a lot more.

Mr Dietsch: Of the 306 Ministry of Labour inspectors, there are 266 game and fish wildlife inspectors, but in addition to the game and life, there are 51 management people, which brings it to 317. That is a long way from twice as many. In answer to your earlier question, when you indicate that you support that the joint health and safety committees should be the ones inspecting the workplace and grabbing the situation and correcting it before it takes place, I think that will help an awful lot. Do you agree?

Mr Jourdin: Yes.

Mr Wildman: I want to congratulate you on your brief. It was very well put together and well presented to the committee. We appreciate your taking the time.

I would like to follow up on a couple of things. In the previous presentation, the presenters said that they believed the right to inspect and to shut

down workplaces should be left with the Ministry of Labour inspectors. You have pointed out in your brief that 60 per cent of the workplaces in the province were not inspected even once last year. So whether the numbers on conservation officers and health and safety inspectors are right or wrong, it appears that we certainly do not have enough.

Mr Dietsch: I was correcting the record for Mr Mackenzie.

Mr Wildman: For that matter, as an aside, I do not think we have enough conservation officers in this province either. If 60 per cent have not been inspected, do you think it would be a better approach or an additional approach to indeed have certified workers who could inspect the workplace and shut down unsafe work conditions until the situation was rectified?

Mr Jourdin: Yes, I certainly do. Once again, I will comment that the people who are working in the workforce or working on the machinery I think best know the equipment they are working around and the area. If they get some training and education and are certified, I think they would make a correct decision and I do not think they would abuse it. The system has been there in the past and, as I mentioned earlier, we have had the right to refuse. We have had work refusals in our mill, and I said that the average is that about 90 per cent of them are legitimate. So I think it would be worth while having them.

Mr Wildman: Do you think having a trained worker inspector with the right to shut down an unsafe work situation would then encourage workers to be less responsible about their own health and safety and the health and safety of their co-workers? That was really what was suggested to us by the construction association that appeared before us.

Mr Jourdin: I think everyone who goes to work himself does not go to work to get injured or intend to get injured, and I think individuals themselves try to work safely. What you have to do sometimes, with the automation and the technological changes, people have to be aware of the situation that is there and be educated and trained. As I said earlier, today this has changed and this is the way it is running. Nobody wants to get injured on a job. I do not believe that was—

Mr Wildman: The last question, Mr Chairman. You referred in your brief to maximum fines and what the average fines are. Would you think it appropriate to have an amendment to this legislation that would in fact set forward minimum fines rather than just maximum fines?

Mr Jourdin: Yes. I think that might be a minimum with a higher rate, that people know they are going to get nailed. If I go down the street and I am speeding, I get a ticket. I know I might lose two points if I am going 45 miles an hour over the speed limit or whatever it is. I think if companies know there is going to be a minimum, and it should be a good fine, they will take a little bit more action.

Mr Wildman: I would just like to say again that I appreciate the brief. It was well done. I hope everyone on the committee agrees that workers should not in any way be penalized for exercising their rights under this act, and the right to ensure that they receive the pay to which they are entitled. Even if a workplace is shut down, either by management or the Ministry of Labour or the workers, they should be protected. The workers should not lose pay because there is an unsafe condition that is preventing them from working.

The Chair: Mr Della-Savia and Mr Jourdin, thank you very much for your presentation.

The next presentation is from the Sault Ste Marie Public Utilities Commission. I believe this is the first utilities commission we have heard from, so we welcome your presence here this morning. If you would introduce yourselves and be seated so that you can speak into the mike, the next 30 minutes are yours. If you will introduce yourselves, we can proceed.

1040

SAULT STE MARIE PUBLIC UTILITIES COMMISSION

Mr Ireland: My name is Cliff Ireland. I am general manager of the Sault Ste Marie Public Utilities Commission. I have with me here Les Tulloch, who is our operations division manager. I appreciate your comment about 30 minutes. I do not intend to take that amount of time, but I do appreciate the opportunity to address you.

By way of background, I represent the public utilities commission. We distribute electricity to 30,000 customers and water to 24,000 customers in the city and employ a workforce of 124 people. The commission actively advances safety in the workplace for our employees. Further, we are an active participant in and we fully utilize the services of the Electrical Utilities Safety Association of Ontario, better known as EUSA, in our safety program for both the electric and water departments. We also have an active and progressive joint health and safety committee which contributes to the effectiveness of our overall safety program. I would also note that we

are members of District 9, Municipal Electric Association, and there are utilities such as North Bay, Sudbury, Sturgeon Falls, Hearst, Chapleau, plus others, that support our views in this regard.

The specific areas of concern that I wish to submit to you today, and there are four of them, are summarized as follows:

1. The refusal to perform work. From our perspective, the existing legislation affords sufficient protection for the individual worker. As a public utility providing two essential services, electricity and water, there is also a need to be vitally concerned about safety to the general public.

As a normal part of our responsibilities, we must dispatch employees to deal with difficult emergency situations, such as traffic accidents involving damaged hydro poles and fallen wires, ice on hydro wires, broken water mains, etc. We fully recognize and accept the importance of protecting our staff from dangerous situations. However, we must also accept our obligation to continue these essential services to institutions such as hospitals and to deal immediately with situations which could be dangerous to the public. For these reasons, we feel the refusal-to-work provisions in Bill 208 must not be applicable to utility workers where supply to public institutions or public safety is at risk.

2. Health and safety representatives: We have concerns on the proposal for certification of safety representatives. This represents an unwarranted additional financial burden, particularly on smaller organizations such as ours, when viewed in the context of our established overall safety program involving trained and knowledgeable staff from all departments. We have not had any situations where the current safety committee was insufficient. Therefore, a new level of intervention is unnecessary.

3. Delivery agencies: We see the proposals relating to the composition of safety associations as being detrimental to the effective operation of these associations. Dealing specifically with EUSA, this association has done an excellent job of promoting safety in the workplace for the utilities in the province of Ontario. My position is that Bill 208 should not require any change in the current composition of the association board or allow the new Workplace Health and Safety Agency to tamper with its membership.

We also note that the proposal would limit the budget of the safety associations in total to a 10 per cent increase per annum. This could mean that the new agency could cut the budget of some

associations to increase others by more than 10 per cent. As it is our understanding that the Sault Ste Marie PUC, for example, is assessed by the WCB to fund the operation of EUSA, it would seem unreasonable that this public money be used elsewhere for some other private industry. There is also provision for an industry to provide additional funds, if useful and necessary for the protection of its workers, without regulation by an agency which is not familiar with our safety requirements.

4. **Fines:** The imposition of a radical increase in the maximum fines under the Occupational Health and Safety Act from \$25,000 to \$500,000 is of major concern, and for a public body such as ours, represents an onerous potential liability. The minister has indicated that the objective of Bill 208 is to reduce injuries and illness in the workplace. If this is truly the objective of the minister, then the fines should be reasonable and tailored to the concept of who is at fault rather than extracting punitive damages from the employer.

In conclusion, we as an employer take seriously our responsibility for the health and safety of our workers and the public we serve with electricity and water. It is our opinion that Bill 208 in its current form will not improve this position.

I submit this to you, Mr Chair, and members of the committee.

The Chair: Yes, we have copies. Thank you, Mr Ireland.

Mr McGuinty: Thank you for your very, very concise and, I think, clear statement. I am concerned with the passage in which you deal with the refusal to perform work. Now I presume that the workers whom you are alluding to here are well trained in such things as emergency repairs of downed lines in storms and so forth. I presume that they are aware that there is a risk element in the job they perform, that they accept those risks knowingly and they are required to exercise judgement and prudence and care in crisis situations.

Have there been problems with your workers wherein they have felt that they were required to go on and work in hazardous situations against their better judgement? Has that been a problem with your workers?

Mr Ireland: No. In our situation—I say this with great clarity—we have not had this type of problem. We have worked very closely with our workforce, had excellent co-operation and where there is a problem, we have addressed it. However, we feel that the legislation does speak

to extremes, and for this reason we feel we must address it in this manner, because we feel that if a worst-case scenario were to exist—we do not look forward to it, but there should be some option for us to take action. But no, in answer to your question, this has not been a problem in our organization, nor, I think, in the electrical and water utility industry as a whole.

Mr McGuinty: It is an aspect of the bill—I wanted to ask Ms Faught in her very, very moving piece, but I am not sure she is here, the first lady who gave the presentation. I commend her for her courage in giving examples from her family. I could give examples from my own family of similar tragic situations.

But the idea of some public sector workers inappropriately being excluded from this—she referred to police and firemen. Personally I am fully sympathetic to the right to refuse with regard to certain situations in the workplace, and I draw upon personal experience and rather extensive experience, as a labourer on construction. I have seen experiences of irresponsible supervisors or bosses, so to speak, who do, especially sometimes to new Canadians, easily intimidated. I am very sympathetic.

But I have also had some limited experiences as a policeman. As a policeman you are hired to enter certain risk situations knowingly and with judgement, as I presume are firefighters. The idea of a policeman having the right to refuse—the implication being that he would not exercise judgement and prudence and have that care and concern by his supervisors likewise. I recall one time one of my constables reported to the sergeant, “There is an assault and a robbery, three people involved, and I got one of them.” The sergeant says, “Which one of them did you get?” and he says, “I got the victim.”

I can see that your workers here on the line are in somewhat an analogous position to policemen or firemen. Implicit within their job is the right to refuse, unless there is substantial evidence that indicates that your people, or policemen or firefighters, have been forced against their will. In my experience with many police forces over a considerable period of time, that has not been the situation. So I must say I view sympathetically that part of your statement with regard to the particular kind of work in situations and incidents that your workers cover. Thank you for clarifying that.

Mr Ireland: I would note that we do train and equip our people to handle these situations, and when they go to an emergency situation they are equipped with line trucks and all the associated

gear to handle those situations. So training is a very important element in this component.

1050

Mr Wildman: You pointed out that you do a lot of training of your workers because of the potential hazardous situations they might find themselves in. Is any of that training also dealing with their rights and responsibilities under the Occupational Health and Safety Act?

Mr Ireland: Certainly the references to the act are included in the discussions. Our approach has been to be totally open with our workforce. By taking this approach we have had very good co-operation coming the other way. Yes, we disagree on occasion, but the disagreement is not one of a negative nature but rather how best to make the workplace better.

Mr Wildman: Also, you pointed out that you felt the Electrical Utilities Safety Association of Ontario should be left as the sole agency responsible for improving occupational health and safety in your types of workplaces. Could you indicate to me what the representation is on its board of directors? How many representatives of labour are on that board out of the total?

Mr Ireland: Perhaps I might refer to something here. The representation—you never find something when you want it quickly. The main representation on the board, no question, tends to come from the management ranks. It is a cross-section of the electrical utilities, the water utilities in the province, contracting firms, the telephone companies, both the public and the private firms, and the cable TV producing firms. However, at that level, particularly the staff level of EUSAO, there is also very definite dialogue with both CUPE and the International Brotherhood of Electrical Workers—incidentally those are the two main unions in our sector—and there is an IBEW rep who sits on one of the main subcommittees and there is encouragement to likewise bring in a CUPE representative.

Mr Wildman: What is the total number of directors?

Mr Ireland: I do apologize. I cannot give you that statistic offhand, but I can certainly get it for you.

Mr Wildman: I would appreciate that. You say there is one IBEW rep?

Mr Ireland: Yes.

Mr Wildman: And at present you would like a CUPE rep but there is not one available.

Mr Ireland: That is correct.

Mr Wildman: But there would probably be more than one or two management reps on the board.

Mr Ireland: Oh, definitely. I might note, as I say, that there is close dialogue, because of the nature of our business, with both CUPE and IBEW at the staff level.

Mr Wildman: I just have two other questions. One refers to my colleague Mr McGuinty's line of questioning regarding public sector workers, such as policemen. Obviously if you view as a policeman—or a lineman in your case example—if it is a policeman he obviously recognizes hazards in his job, particularly in criminal situations or things such as that, but surely none of us would expect a policeman not to have the right to refuse to drive a cruiser that was obviously in substandard condition and unsafe to drive, would we? That is a rhetorical question.

In the same way if there were lines down in an area the PUC was responsible for I am sure you as a management representative would not expect your lineman to go out there in a truck with a cherrypicker that was not working correctly and might fall down if he got in it, would you?

Mr Ireland: No. When I make that statement it is based on full knowledge, as far as we are concerned, that we would provide the appropriate equipment for him, the lineman, to correctly do the job.

Mr Wildman: Right, and if he did not believe the equipment was safe he should indeed have the right to say: "No, that equipment is not safe and we can't use that. I won't do the job unless you provide me with adequate and safe equipment."

Mr Ireland: I am totally in agreement with you.

Mrs Marland: We are dealing with specialized workers, as with public utilities, and we are talking about people in a similar category to firefighters and police officers where, as my colleague Mr McGuinty said, emergencies are part of the job. Therefore, when they are trained for that job, they are trained for whatever the job requires, which may be working under very hazardous, adverse conditions, as with supply of water and electricity, particularly in bad weather and high risk.

What I am wondering about is, what does a worker do who works for a public utilities commission where there are existing bad and unsafe situations and they are ongoing? I am not talking particularly about the high-risk, emergency situation that comes up from time to time, but on a daily basis, where there are existing

conditions that have been attempted to be resolved and yet nothing gets changed. What alternative does the worker have who works for you in that kind of situation without this legislation?

Mr Ireland: First of all, when I talk about the refusal to work component, I have absolutely no problem that the worker has the right in that situation you just described to refuse to work. It would be our objective, in fact a policy of the commission—staff and its management—that those things be drawn to our attention, and it is incumbent upon us to take action to rectify what you would call those normal situations. That is not the issue I am addressing in my comment. I am addressing the unusual situation where public safety is at risk in an emergency situation.

Mrs Marland: You are saying that with the existing legislation in the Occupational and Safety Act, in your opinion workers have adequate redress to deal with unsafe workplaces in the public utility sector.

Mr Ireland: Yes, that is correct. I might note we have not had a refusal on that basis. We have certainly had issues brought to our attention and then it has been incumbent upon us to act.

Mrs Marland: I am not quite sure whether we are going to be hearing from other public utilities around the province, but in your position, do you meet with other public utility administrators around the province?

Mr Ireland: Yes, we do. In fact my reference to District 9, for example, was a result of discussions we had at our annual meeting held here in Sault Ste Marie in October, and yes, there are ongoing meetings over time among utilities—not that we are coming to you with a totally co-ordinated approach; we each are individual utilities and bring our thoughts to you. But yes, we also to a certain extent speak as a unit. I know that in District 9 the other utilities do share the comments I have brought forward to you today.

Mrs Marland: Do you feel, then, that public utilities should have the same exemption as firefighters and policemen?

Mr Ireland: In the emergency component of their work, yes. That is not afforded to utility workers under the existing act, as you are aware, at this time.

Mrs Marland: Your answer to that question was in an emergency component. Would it be difficult to delineate the emergency component in terms of writing something into legislation that would protect those workers?

Mr Ireland: I feel that any time you write something it is always open to interpretation, but I think that, yes, I feel there could be a definition to define, within reason, an emergency. I am not suggesting it sometimes would not bump it into a grey area, but generally speaking we can delineate between normal work and emergency work.

1100

Mr Riddell: We have had quite a number of groups, particularly those representing management, express some concern about certified safety reps and I notice that you have said it is going to represent an unwarranted additional financial burden. I am just wondering how much of an additional burden a certified rep is going to cause any company. Second, if workers were as timid as I am, and realized they were working in a hazardous area and wanted to refuse to work, some of them would not do so, would not exercise that right because they do not particularly want to shut the assembly line down where other workers are going to have to cease work, and they do not want to take the risk of being demoted to another job.

Is it not only fair that they be able to call on a second opinion? Doctors do it. Before doctors will carry out certain medical procedures, they will ask for a second and even a third or fourth opinion. What is wrong with having a certified safety representative, where this timid Jack Riddell wants to refuse to work but will not for the reasons I have indicated, what is wrong with my being able to call the certified safety rep and say, "Listen, do you think I have a right to refuse work"?

I guess I do not understand the real concern that you people have about a certified safety rep. Would you tell me how in the world this rep is going to cause you additional financial burden, as you have it here, I think?

Mr Ireland: I will try to answer that this way: First of all, we feel that through the present mechanism of the departmental safety representatives who sit on the safety committee, there is absolutely a present vehicle and forum for the individual worker who may be reticent, as you have suggested may be the case, to bring forward through that mechanism any concerns he has in respect of safety. It has been our experience that our workers are not reticent about bringing those complaints forward.

The issue in regard to the certified person is that we pass over it easily and say, "That is just one person." In our type of business, one person, we feel, would be totally inadequate. He could

not be knowledgeable across the spectrum of the type of work we do. It would be a case of not just having one; you would have to have several in order to be able to cover for things like vacations, sick leave and the various other things that take place in an organization.

I guess, finally, going back to my original point, we feel there are the appropriate vehicles within our current safety program that more than take care of these situations.

Mr Riddell: One more question: Regarding the agency, we hear where the internal responsibility system is working well and let's not do anything that is going to interfere with that. When this agency is established, if indeed it is, its major role is going to be education and training. How in the world could that possibly interfere? Do you really think the agency would interfere in a situation where the company and the workers are getting along quite well with their safety associations and with the education and training that is going on? Do you really think this agency is going to run interference? Do you not think that really one of the reasons for the agency is to bring those companies in line that are not doing a good job from the standpoint of health and safety in the workplace?

Mr Ireland: I guess my view on that comes from the fact that we have a very effective organization through EUSAO and I guess I have difficulty supporting a change. I know this runs counter to your position, but our opinion on this matter, I guess, comes from the fact that we have a good setup now and we cannot see where the change would be beneficial.

Mr Riddell: How do you see the agency dismantling the system that you have now?

Mr Ireland: That certainly is speculative and would be speculative on my part. I guess one tends to look at things negatively on occasion when change occurs. For example, one point of reference I made is the reallocation of funds which could affect the type of service the association provides. The emphasis could be different. It may very well be that the new agency decides to take a different direction than the one we have been following, and if it is at a policy level, then the association would have to follow it. I am not too sure the mechanism exists that we could then disagree or overturn the position of the agency.

The Chair: I wonder if you would leave Mr Mackenzie time for a short question, Mr Riddell.

Mr Riddell: Thank you.

The Chair: We do not have much time.

Mr Mackenzie: I am just wondering if your commission has had any worker exposure to PCBs.

Mr Ireland: There is no single issue that has been so misrepresented and grossly distorted as PCBs. We have transformers that have PCBs. We have been very open, very public, in the city about our PCB destruction program. We have, I think, about \$500,000 budgeted over the next three years to remove PCBs from transformers that are on our system. We are totally equipped to handle emergency situations with respect to PCBs. Our workforce has been trained. Further, we co-operate very closely with the Ministry of the Environment in this area.

Mr Mackenzie: I am just curious: in what respect has it been so misrepresented?

Mr Ireland: If you read the scientific literature and get away from the newspaper headlines, you will find that PCBs are not the health hazard that is portrayed. There are 40 years of history in this regard. Where PCBs are dangerous—let's be very clear on this—is if they burn and there is incomplete burning. It is not the oil with PCBs that causes the problem. It is the burning action and the result of incomplete burning. It is the smoke which produces dioxins and furans, yes. That is the justification for getting rid of PCBs.

Again, I would be pleased to give you extensive research articles by eminent scientists, which always get reported on the back page of the paper every time there is an oil spill. It never gets referred to. The headline is always "Cancer-Causing Dangers." That is not the information that is provided out of 40 years of history.

Mr Mackenzie: Have you had orders issued on this basis by any of the ministries?

Mr Ireland: No, we have not had orders because of the approach we have taken in respect of PCBs. We treat them as dangerous. In other words, even though we disagree with the position put forward, our policy is that we will be in compliance with the legislation and go to extensive lengths to protect our workers.

The Chair: We really must bring this presentation to a halt. We thank you very much, Mr Ireland and Mr Tulloch, for your presentation this morning.

The next presentation is from the Retail, Wholesale and Department Store Union. Mr Collins is here, I believe. We welcome you to the committee this morning. If you introduce your colleagues, we can proceed.

RETAIL, WHOLESALE AND
DEPARTMENT STORE UNION
ONTARIO FEDERATION OF LABOUR

Mr Collins: Linda Jolley, of course, has been doing yeoman's duty here today. Linda is the director of health and safety for the Ontario Federation of Labour. On my immediate right is Leo Grandbois, who is the staff representative for Retail, Wholesale in the Sault Ste Marie area.

I want to thank the committee for the opportunity of putting forward our position, which is one on behalf of the Retail, Wholesale and Department Store Union, but also on behalf of the Ontario Federation of Labour in support of its previous brief.

The Retail, Wholesale and Department Store Union wishes to thank the standing committee on resources development for this opportunity to address our concerns about Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act in Ontario.

The Retail, Wholesale and Department Store Union represents approximately 17,000 working men and women in Ontario in such industries as dairies, bakeries, retail food outlets, warehouses, department stores, hotels, restaurants, food services and taxis.

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Our members experience almost every form of occupational hazard that exists in industrial workplaces across this province, including exposure to chemical and biological hazards, repetitive strain injuries, general safety hazards and stress on the job.

In the wholesale and retail trade in Ontario, our lost-time injuries have increased 38.5 per cent since the Occupational Health and Safety Act came into effect, and the 30,811 lost-time claims in 1988, the last year for which we have figures, represent the third-largest percentage of serious injuries among Ontario industries. That is according to the the Workers' Compensation Board.

Within the food and beverage manufacturing industry in Ontario, the lost-time claims have been growing steadily as well. Workers in the bakery products industry lost 481,000 days of production due to temporary total disabilities in 1987, and dairy workers lost 253,000 days, which contributed substantially to the total lost production of this province due to workplace injuries and illnesses. We even lost 21 workers in the retail and wholesale trade industry in Ontario in 1988, seven per cent of the total deaths recorded by the WCB. So our members are very directly affected by the work of this committee

and this government in their deliberations over Bill 208.

The Retail, Wholesale and Department Store Union endorses wholeheartedly the position of the Ontario Federation of Labour presented to this committee on 15 January of this year.

Our members have been systematically excluded from the right to participate in legislated joint committees in retail, hotel and restaurant services under the present Occupational Health and Safety Act, although many of our collective agreements do provide this right. So we welcomed Bill 208 ensuring coverage of these retail, hotel and restaurant workers in legislated joint health and safety committees.

Although we have participated in the Workers' Health and Safety Centre's courses, we certainly welcome the emphasis on training provided in Bill 208, with the establishment of standards to be set by a bipartite labour-management agency and the legislated requirements for training of all joint health and safety committee members, and certified members in particular.

Because many of our members in the retail and wholesale trade industry suffer from repetitive strain injuries resulting from poor ergonomic design of the checkout counters, for example, we were enthusiastic about the proposed extension of our members' individual right to refuse unsafe activities. However, we too feel betrayed by the proposed amendments presented by the Honourable Gerry Phillips in October and again before this committee in December.

The imposition of a so-called neutral chair in the agency does alter the bipartite nature of that structure. We have had too much experience with committees with neutral chairs to know that neutrality is an exceedingly rare phenomenon. It is unlikely that a neutral chair could be agreed to by both parties, which would mean that government would impose a chair that represents its interests, making it tripartite. But more importantly, the philosophy of Bill 208 is based on the two workplace parties working together to find solutions to health and safety problems, whether in the workplace or in the area of workplace training and research. To impose a chair, even if neutral, is to essentially prejudge the fact that such consensus cannot be achieved. The parties will then be under no compulsion to reach a consensus since the neutral chair will ultimately impose a decision.

The restriction on the definition of "activity" to one of immediate or imminent danger is totally unacceptable. All of you who have bought groceries in this province will surely have seen

the kind of repetitive motions and lifting and twisting that many of our members are forced to do because of the poor design of checkout counters in our supermarkets. One Canadian study found that cashiers who use scanners may handle as many as 450 to 600 items per hour, serve 50 to 60 customers and fill 50 to 80 bags. The same study found that 66.2 per cent of the cashiers reported general fatigue and 14.9 per cent reported what was termed extraordinary fatigue. Those cashiers using optical scanners are constantly twisting their wrists to make sure the code on the product is picked up by the scanner. Such repetitive motions have resulted in repetitive strain injuries such as tendinitis and carpal tunnel syndrome.

We have no regulations in this province requiring the proper design of workplace stations, equipment or the work itself, so to leave this problem to joint health and safety committees is to ensure that the number of repetitive strain injuries, which caused more than 48.17 per cent of the disability compensation claims in 1987, is bound to increase. Currently our members, in practice, have had the right to refuse such long-term chronic hazards, and imposing a restriction on "activity" will not only impose imminent danger into our right to refuse, which this Legislature rejected in 1978, but will take us backwards from the present practice.

The minister's intention to remove the proposed right to shut down an unsafe operation by a well-trained certified worker member will mean that joint committees will continue to be advisory only and therefore, according to the minister's own advisory council's survey of joint committees, ineffective.

The right to shut down an unsafe operation is essential to make the internal responsibility system work. It is not enough to have an individual right to refuse, because individual workers are often not thoroughly trained in hazard awareness and are subject to intimidation in the workplace. We do not have enough inspectors in this province to be in every workplace at every moment of every working day, and especially now that the ministry has even reduced the likelihood of an inspector's visit to a "good" employer, it is crucial that the certified worker member has a way to handle an immediately dangerous and illegal situation.

To suggest that a joint decision of the worker member and management would be a solution is to leave the status quo, and we know that the 293 deaths and almost half a million injuries that occurred in 1988 indicate that the status quo is

not good enough. You are not giving a unilateral right to the workers' side. Management already has the right to shut down at any point. All this right does is give workers the essential right to act to protect their fellow workers.

The minister has told you that the individual right to refuse has not been used frivolously in this province, and only a couple of employers have actually suggested that they have had a frivolous experience, but with no documentation. There is absolutely no reason to believe that a well-trained certified worker would use this right to shut down frivolously, and studies in both Sweden and the state of Victoria—in Australia, by the way—where worker health and safety representatives have had such a right for several years, have indicated a reluctance to use this right and a responsible use of this right.

In fact, in Sweden, the number of worker shutdowns requiring an inspector's intervention because of a dispute with the employer began at 167 in 1978 and went steadily downward to 78 in 1982, which is the last year for which we have statistics. The reason is that employers have found that workers do use this right responsibly and they are resolving the problem without the intervention of their inspectors, surely the goal of an internal responsibility system.

The minister's proposed amendments to Bill 208 essentially gut the principles on which the labour movement in this province supported the bill in principle. We believe that we could work with the committee to pass amendments that would make this legislation the best in North America, as the minister stated it should be, but these proposals make Bill 208 unacceptable to the labour movement.

We ask this committee to carefully consider the amendments that the Ontario Federation of Labour has placed before you, including total coverage of all workers in Ontario; the removal of exemptions and restrictions on public sector workers' right to refuse and right to shut down unsafe operations; the agency to remain bipartite, to determine the representation on the safety associations and to determine what, when and by whom workplace training should be done; payment for all workers during legitimate work refusals or shutdowns due to health and safety problems; inspections of the entire workplace once a month; all members on the joint committee to come from the workplace; no other worker to be assigned a job that has been refused under section 23 of the Occupational Health and Safety Act; an independent appeal system outside of the

Ministry of Labour, and the other amendments contained in the OFL brief.

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We are asking this committee and this government to give us a bill that will enable workers to act to protect their lives, their limbs and their health in the workplace. We are asking this committee and this government to give us a bill that states clearly that one worker dying every working day and more than 1,800 workers injured every working day is unacceptable to all of us in Ontario.

For economic reasons, this deadly toll must be reduced. In 1987 we lost more than seven million days of production due to occupational deaths, injuries and illnesses in Ontario. That was seven times more than lost to industrial disputes within the province. We lost \$1.4 billion in direct workers' compensation payments, which means between \$6 billion and \$10 billion in indirect costs due to retraining, repairs, etc. Surely these costs to our economy are unacceptable. But of more importance is the cost in human suffering that the 293 deaths in 1988 meant to Ontario families. These are the 293 gravestones that are represented in Ontario's needless graveyard that stands outside this hearing room to remind us all of why we are here. We need an Occupational Health and Safety Act that would truly put Ontario in the forefront. I would like to thank you very much for the time.

The Chair: Thank you, Mr Collins. There are quite a few members who wish to engage in conversation with you. Mr Dietsch.

Mr Dietsch: I am curious as to your comments with respect to the design of the checkout counter, I believe was the example that you used. In your opinion, who do you think is best equipped to look at modifications that can be made to that particular workstation that would enhance the safety and health of the worker?

Mr Collins: The people who work on the job.

Mr Dietsch: You feel that the people who work on the job are best equipped. In consultation with anyone else?

Mr Collins: In consultation with management and the safety committees that are available in those workplaces.

Mr Dietsch: I believe it was in another paragraph a little farther on in your brief that you had talked about regulations for poor design. I think you are quite right. I think individuals who work on their own particular workstations, whether it be in the checkout counter or in the back unloading the truck, or whatever aspect of

the business they happen to be involved in, are in fact the best to handle suggestions to improve their particular work site. In fact, that is what the bill is suggesting, that the joint health and safety committees that are structured will in fact look at the individual workstations and how they can make those improvements. But in terms of the regulations, how would you see regulations of improvements in those workstations being drawn up?

Mr Collins: I would think a move in the direction that would require that the corrections be made; either that, or that the employees would have the right to refuse to work on that type of job until they are made would be a move in the right direction.

Mr Dietsch: So if we took it a step further in terms of the joint health and safety committees looking at improvements to the particular workstation, and there was action that was necessary to be taken, if that action would take place, that would be a step in the right direction.

Mr Collins: Right.

Ms Jolley: I wonder if I could speak to that issue as well. As I mentioned earlier, we in fact had agreement from the government to set up a regulations committee for the industrial safety regulations, and it was agreed that it would be a bipartite labour-management regulations committee, as is our joint steering committee on toxic substances and the Mining Legislative Review Committee. Certainly it would be our intention that as we were developing individual regulations, whether it be for offices or retail stores, that the workers representing those workers would indeed be at the table with management from the stores, the offices, etc., to design the regulations that would apply in their workplace.

Mr Dietsch: Further to that then, each particular, individual work site would have a regulation? I am not sure I clearly understand you. Are you suggesting that each particular work site would have a regulation?

Ms Jolley: We are not at that stage yet because we have yet to meet. As I said, management has not come to the table.

Mr Dietsch: Right, but what would be your view?

Ms Jolley: I think we would have to investigate whether there could be a generic regulation that would apply to design. I find it hard to believe that a generic one that would apply to offices, retail and industrial work sites could be formulated, but we would have to work on that together.

Mr Mackenzie: I will go back to either Mr Collins or Ms Jolley. It is in relation to the same question just asked. What you are telling us is that, without this bill, you have already tried to deal specifically with the government, with management, with this particular problem, and in fact what stymied it is that you have not been able to arrange any meetings or that management has refused to meet with you.

Mr Collins: That is right.

Mr Mackenzie: The second question I have deals with one of your opening comments about the so-called neutral chair. One of the things that has disturbed me in this legislation, apart from the difficulty of arriving at a neutral chair, is that if there is a difficult situation, the fact that you end up with a tripartite arrangement in effect is going to have serious effects on the internal responsibility system because there will be a situation where rather than trying to make the decision, the two parties involved will leave it to the third party or the neutral chair. Do you see that as a real danger in this suggestion?

Mr Collins: I think there are all kinds of committees developed under various sections of the legislation that are proof of that pudding. If we want truly a bipartite grouping to work on problems of health and safety in the workplace, then I do not think we should put them in a position of automatically being able to throw up their hands and say, "Let the third guy make the decision."

Mr Mackenzie: By the same token, the very fact that labour and management have to make that tough decision has at least the potential, I would think, to remove some of the confrontation we have ended up with in the workplace. They are going to have to make the hard decisions.

Mr Collins: I do not think there is any question about that fact.

Mr Wiseman: Mr Collins, on page 1, I was surprised as a retailer to find that accidents have gone up in the service industry more or less and that the two largest ones were the bakery business and the dairy business. Just as a matter of interest, was there one particular injury? Was it back injury in the dairy industry? What caused the majority of them?

Mr Collins: I do not think there is any particular individual injury that we could tie it to, but I think many of the injuries that arise in the dairy industry are out of poor work habits, poor shop conditions—in other words, slippery floors, that type of thing—people being required to carry

unreasonable amounts of product, getting tangled up with machinery. It is a whole group and series of things.

Mr Wiseman: The other one that alarmed me, again as a retailer, was that we had a little better than seven per cent, 21 deaths, due to the service industry. Would this be in the delivery and would most of those deaths have been car or truck accidents, delivery on the routes when they were out there, rather than, say, machine-inflicted deaths?

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Mr Collins: No, most of them are in-plant problems. Most of the deaths resulted from in-plant machinery problems.

The Chair: Thank you. Now to Mr Wildman.

Mr Wildman: Thank you, Mr Chairman. I just have one question. I am referring to page 8 of your brief, the second to last page, where you point out that the statistics are that more than 1,800 workers are injured every working day in Ontario and there is a cost of \$1.45 billion in direct workers' compensation payments and other related costs of \$6 billion to \$10 billion. How would you sum this up? What do these statistics, alarming as they are, indicate about the internal responsibility system, or is it fair to ask that question?

Mr Collins: I think it is fair to say that, at this point in time, it is not working very well. I think it is an indication that there has to be much more done in the whole field of health and safety and, of course, it has been indicated here earlier today that we felt Bill 208 in its original form was not going to address all of labour's concerns. Certainly, it was movement in the right direction. We are concerned now with the changes that are being proposed that we are not only not going to have that "some improvement" feature, but in fact the bill has been gutted and will be useless to look after the interests of working people in Ontario.

Mr Wildman: Thank you, Mr Chairman. I just hope that all of us on the committee will take seriously our responsibility to try to do everything we can to lower that figure of 293 deaths in 1988.

The Chair: Mr Collins, thank you on behalf of the committee for your presentation this morning.

The next presentation is from the United Steelworkers, Mr Glibbery and colleagues. Mr Glibbery, if you will introduce your colleagues, the next 30 minutes are yours.

UNITED STEELWORKERS OF AMERICA
LOCALS 5417, 5762, 5980, 5815, 8519

Mr Glibbery: We are doing a joint presentation because of the fact that the biggest union of steelworkers here in Sault Ste Marie did not have the chance to make its presentation. So we are jointly going to do our presentation with Chuck Frayn, the chairman of Local 2251. To his left is George Mondoux, the chairman of Local 5980, and Wyman Jennings to my right from Denison Mines of the Steelworkers Local 5762.

Let me just say that with a travel day in mind in between Tuesday and today, we thought that this committee would have gone to Elliot Lake. We represent 4,000 steelworkers in Elliot Lake and there are also other unions, namely, the OPEIU, OPSEU and CUPE locals, and we thought that the committee would have taken a couple of hours to just drive 18 miles up the highway to give them the opportunity to speak also.

Let me say that when a previous minister, Mr Sorbara, introduced this bill in January 1989, there was a very valid reason behind it. He introduced it to stop the needless amounts of fatalities and injuries occurring at a rate too fast for anybody to accept. Our union in Elliot Lake can be proud that we have already negotiated health and safety training into our collective agreements. Prior to 1979, we had 30 needless fatalities in Elliot Lake. Then came Bill 70 and, from 1979 to 1984, there were a total of five.

In 1981, our union achieved a first when we negotiated the worker inspector or the certified member at Rio Algom and Denison Mines. This job of worker inspector is very important to us. It gives us, the worker inspectors, the right to shut down our workplaces and issue the stop-work orders of unsafe practices. I have attached our job descriptions and also Denison's collective agreements on the back of our presentation. In fact, during the period of 1984-89 there were only four fatalities in Elliot Lake. We believe that the combination of the right to refuse and the worker inspections have contributed to the dramatic drop in fatalities, but it still is not good enough. Our union has always believed that one fatality is too many, one injury is too many.

We have also negotiated training for our members on health safety. By the way, this training is paid by our company and by Denison's company. When we talk about training, it is also important to point out that when the workplace hazardous materials information system, WHMIS, was implemented, we had a total of 25 instructors trained by labour, paid for by the

companies, to provide training to our workers at Rio Algom and Denison Mines.

I am going to pass it over to Wyman here and he will let you know about the training that goes on at Denison.

Mr Jennings: At the present time, five worker inspectors have been trained. We have got the WHMIS. We have 11 instructors in WHMIS. Right now, we are doing a radiation course and our instructors are union people. At Denison we have negotiated just in the past couple of months level 1 and level 2 from the Workers' Health and Safety Centre. This is going to be training for all committee people. This is the way we believe we have to go with this. Now people have to be trained properly for the betterment of everybody, the worker and the companies.

Mr Glibbery: When they talk about the Workplace Health and Safety Agency, we will look to this agency to ensure that workers receive necessary training to enable them to protect themselves and their fellow workers on the job. Studies have been conducted that prove there is a need for training. We have established without a doubt in Elliot Lake that we, the workers, can do the training required and our members are made aware of the hazards that exist in their workplaces. Wyman gave you examples of the training that goes on. By the way, the workers also trained their management people.

Workplace parties are best able to determine the necessary training that is required in our workplaces. Why then does this new minister want to introduce a third-party chairperson? Does he not have faith in a bipartite format? A good example for this agency is the joint health and safety committees themselves. We have demonstrated that we do not need an outsider to run our meetings or determine the procedures, as we believe this will only complicate and confuse matters.

We have worked jointly with management and implemented all aspects of the training programs required for our workers. In an article that appeared in the December issue of the Northern Miner, one of our managers, Harry Ewaschuk, said, and I quote, "One of the keys to success in the mining business in the 1990s will be better training and more employee involvement." He also goes on to say that, "These are goals which require management commitment and a long-term perspective."

Another example of bipartite committees that work well together is the minister's own appointed Mining Legislative Review Committee. This committee of equal numbers from both labour

and management agreed in principle at a meeting in Timmins, Ontario, 24 January 1989, to the formation of a worker inspector or certified member. Does the minister now say that endless hours of work put in by the committee are to be discarded? We believe the minister wants to give employers the edge and an additional voice that we and our members do not think is needed, and we believe is an insult to our integrity.

Certified members or worker inspectors are to ensure the health and safety of our members. This is shown by the dramatic drop in the fatalities. The response from our members has been very positive. While the proposal of a certified member does not go far enough, it is indeed a step in the right direction towards the worker inspector. In the uranium industry we are a close second to the nickel industry in medical aid frequency. You should also be aware, and I am sure you are, that in the nickel mines they also have the worker inspector or certified member. That has been negotiated.

For the minister to categorize employers into good and bad would create endless litigation and dispute. Workers die in good workplaces as well as bad. It would be unfortunate if this committee's attention was diverted from the real issue here. Rather than concentrate on good or bad, the committee should look at giving the certified member other powers. Improvement orders can be issued to employers which would not require a stop-work order. We have this in our job description also.

Even within the scope of the right to refuse, our workers are afraid to exercise their rights. I will give you a good example. They wanted one of our workers to work on a scoop tram. He was supposed to operate a smoky scoop tram. He told his supervisor he did not want to operate this machine any more; he wanted tests performed on it. The supervisor went from level to level underground looking for a worker to do that job.

He did not go in in contravention. He told the workers that this guy exercised his right. He found a guy. After the guy gets the scoop tram, they put the first guy in what is commonly known, even by management at Rio Algom, as the penalty box. If anybody works in a penalty box—you have to see this place. The ground-works are dusty and besides that, they take away the bonus that a guy would have normally worked in a normal job.

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There are a lot of other examples of this. We have workers who are trackless A miners, top-notch miners. A guy exercised his right,

informed the union that he had a problem in a heading—the same heading, by the way, where two years ago one of our workers was crushed to death. That worker refused to go into that heading because it was not working well. We called the Ministry of Labour. This worker in turn ended up going on a scaling bar for seven days. Do you think these guys will ever refuse again? I do not think so. I am sure Wyman can give you other examples of what happens in our mines.

Mr Jennings: We have got operators for haulage equipment, heavy underground equipment. We have one operator who refused. His unit was unsafe because of brakes and steering. They said, "Okay, if you are going to refuse, you are put on the banjo." What we call the banjo is the shovel. That is where he spent his time for three days while his machine was getting fixed.

The next incident was a mechanic who refused to work on a unit where the transmission had to be changed. He was using the boom truck out in a drift beside the road haulage route. The equipment going by is really noisy; you cannot hear. The operator is at the controls. The second man is down in the compartment trying to give directions and line this up. The mechanic felt it was unsafe and he refused. He was harassed and given a lot of problems. He was called in by second line and told that he was going to be moved out of that area. So he will never refuse again. The operator will not refuse again.

These are the problems we have and we have to address these problems. Hopefully, with Bill 208 we can get this done if we do not water it down.

Mr Glibbery: When we talk about appeals, we are concerned that Bill 208 does not go far enough for an independent tribunal to consider appeals under the act. Appeals now go to a director who is part of the same office as the Ministry of Labour. I have written to the Ministry of Labour's office many times and we are told, "No contraventions, no contraventions."

To say that we are dissatisfied with this process is making an understatement. Appeals should not be heard by persons who have a vested interest in the outcome. We recommend that the committee consider an external mechanism for appeals along the lines proposed by the Ontario Federation of Labour.

We thank you for allowing us to speak for the 4,000 steelworkers in Elliot Lake. We hope that this present Minister of Labour will leave Bill 208 intact as proposed by his predecessor. Give

us, the workers, some say in our workplaces. We are tired of going to funerals for our members.

UNITED STEELWORKERS OF AMERICA
LOCALS 2251, 4509, 5595

Mr Frayn: My name is Chuck Frayn and I am speaking for approximately 7,000 steelworkers in locals 2251, 4509 and 5595. We welcome this opportunity to present our views on this extremely important and life-saving legislation. We thank our brothers from Elliot Lake for affording us part of their time.

One out of five workers say that they have either been injured on the job or have developed medical problems from their job. Given approximately 12,000 workers in our area, we are accepting that 2,400 of them will need medical attention due to occupational illness or occupational injury.

The National Cancer Institute says that 40 per cent of cancers come from the workplace and 90 per cent of cancers are environmentally introduced. That clearly means that 90 per cent of cancers are preventable.

We believe that the proposed changes to the Occupational Health and Safety Act, which were introduced by Mr Sorbara, are a small step in the right direction. We do not believe that Mr Sorbara's proposals are perfect, but I repeat, he at least was moving forward.

I am not going to bore you with more statistics. Everyone in this room is very well aware of the history of worker carnage. Everyone is very well aware of labour struggles to stay alive while earning a living.

Today, I would like to talk to you about workplace audits, the right to refuse, training and certified members.

Workplace audits, subsection 8(8): We, the steelworkers at Algoma, have the right to jointly inspect the workplace once a month. We jointly audit the total workplace each month. We audit not only the physical condition of the workplace, but we jointly look for any condition that may be a potential source of harm to any of Algoma's employees. Unsafe facts and conditions are reported and corrected. Our jointly agreed-to system is far greater than the present wording in the act. We believe this monthly audit to be an extremely important tool in our efforts to maintain a safe and healthy workplace.

The monthly audit is an important educational tool. Workers and management have learned how to recognize workplace anomalies through the monthly efforts of the joint audit team. Recognizing and removing unsafe conditions on

a regular basis, ensuring worker and management compliance of the rules, talking to workers and supervisors about problems found, is the mandate of the trained joint audit teams. We, the steelworkers at Algoma, have the monthly audit entrenched in our health and safety manual and our labour agreement. We are indeed fortunate.

We strongly believe that the protection we enjoy through our labour agreements should be incorporated into the Occupational Health and Safety Act. The government must protect all workers, organized and unorganized. We implore you not to water down the existing provisions in subsection 8(8), but rather to expand the provisions to read "not less than once per month, and inspect the total condition of the workplace, including environmental and other concerns which may harm the workers or the public." We do.

The right to refuse, section 23: We are asking that the right to refuse unsafe work, if the worker has "reason to believe," remain intact.

A steelmaking complex the size of Algoma has virtually thousands of situations with the potential of causing harm to workers. Given that what I just said is indeed fact, why would it not follow that Algoma should have been plagued with thousands of work refusals? Well, we have not.

The joint committees at Algoma have always stressed that section 17, workers' duties, should be followed before section 23, the right to refuse. We have also stressed through many seminars to both supervisors and workers, "Yes, you have the right to refuse, but you also have responsibilities, responsibilities not only for your own wellbeing but also for that of your fellow workers."

We jointly instruct that if the worker has reason to believe that the work being performed is likely to endanger himself or another worker, then he must report the concern immediately to a supervisor. If the supervisor agrees, the concern is immediately corrected or the worker exposure is eliminated until corrective action is taken. If the supervisor disagrees with the worker, provisions provided in section 23 are to be invoked. It is not only the right of a worker to refuse; it is the worker's responsibility to refuse. It is also incumbent upon the employer or supervisor to act in a manner for the protection of the worker.

So you see, it is the wording "reason to believe" that makes the whole system work. Do not make it harder for workers to exercise their responsibilities, but rather expand the provisions in section 23 to include ergonomics and repetitive activities. The long-term effects of unnatural

body positions or repetitive motions are no less insidious than exposure to certain chemicals. The latency period of the above must be recognized by the Occupational Health and Safety Act.

The payment of all workers affected by a work refusal must be made mandatory. An example of one case where many workers were affected by a chemical exposure: Only one worker refused to work, because group refusals are not allowed. The shift was cancelled. The company recognized it was wrong after discussions with the joint committee. The company agreed with the worker and the refusal was settled at the supervisor-worker rep level. Someone in the company then took the position that only the worker who refused would be paid. After some discussion with the management people, they agreed they had screwed up. The other workers should not be penalized. They paid all the workers who were involved. They did not have to under existing legislation, but they did.

We are asking that the legislation be changed to include payment for all workers affected by a work refusal or work stoppage. The right to refuse is a right that was hotly debated by management before it was incorporated into the act in 1978. Management knew the workers would never work again; they would just keep on refusing. Chaos would be the rule of the workplace. The last 11 years have proved management wrong. The workers have not abused the right to refuse, and they have exercised this right in a very responsible manner.

Workers must have a degree of control for the protection of their health and their safety. Do not take the control away from them.

Training: In the advisory council's 10th annual report you will find 97 per cent of the public surveyed and 98 per cent of the union members feel that training is the best way to make jobs safe. It seems to us that workplace training lay in limbo for many, many years. The odd safety talk was given to workers and occasionally someone would show a gory film showing lots of workers' blood. It was not until the OFL developed its health and safety training program that the real issues in workplace health and safety came to the forefront. The Workers' Health and Safety Centre's success in its level 1 training program has been unparalleled in the history of this province.

Thousands of workers in this province attended the level 1 program on their own time. They gave up their weekends and their evenings. Finally, an organization had come forward to tell workers why they are dying and the thirst for

knowledge was certainly there. The thousands of workers who have gone on to become trainers for the centre have in turn trained tens of thousands of Ontario workers, workers training workers and now workers training management. The management associations that have had millions and millions of dollars in their budgets have not even succeeded in training their own. We ask the standing committee to include the Workers' Health and Safety Centre as a custodian of workplace health and safety training. Look at what they have accomplished with very limited funds.

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The workers at Algoma authorized their executive to negotiate money for health and safety training. These workers have given up their own money so that they may be trained in health and safety matters. Currently, we are jointly training all supervisors and an equal number of workers in the level 1 program. Algoma Steel is not unique in this position. Many large companies and unions have negotiated the level 1 program into their labour agreements.

The management and union people who have received this training at Algoma are unanimous, and I emphasize the word "unanimous," in their enthusiasm for the program, and they are unanimous in their belief that the knowledge they now will have will help reduce workplace injuries and illness. We believe that this knowledge should be made available to all Ontario workers. Workers must attend a minimum of 40 hours' health and safety training before going into the workplace. Such training is to include the workplace hazardous materials information system 1 and the workers' centre level 1 program. Supervisors must have WHMIS 1 and 2 and the level 1 training before assuming duties. Legislation must ensure that supervisors meet the criteria for "competent person."

We must give management and workers the tools to do the job. Education is the tool.

Certified members: Worker inspectors is not a new concept. They already are in many Steel-worker mining locals and they already have the right to shut down jobs. Other countries have also adopted the inspector concept and once again it has proven that workers with responsibilities are responsible workers. The right to shut down an unsafe job has not been abused, just as the right to refuse has not been abused.

The proposal for certified members is a positive move and it should go a long way in providing additional health and safety safeguards for Ontario workers. We ask, however, that the

legislation make it perfectly clear that unions will select the union-certified members.

We are also concerned with the penalty of decertification for life if a member makes a mistake. Where in the legislation is the penalty imposed on the company if the certified member is right? If wrong, no hazard exists, but if right, obviously the company was not in compliance with the Occupational Health and Safety Act.

When a job is stopped by a certified member, the job should not be started until the hazard is corrected. If management disagrees with the reason for the work stoppage, then the provisions provided in section 23 should be invoked immediately, beginning with subsection 23(7), "An inspector shall investigate." The job should be started up only on the decision of the Ministry of Labour inspector.

You have heard me refer to our labour agreement several times in this brief. We are fortunate to belong to a powerful and respected organization, the United Steelworkers of America, but we cannot leave worker health and safety to unions alone. You are the legislators of this province and must protect all the workers. It is decision-making time for the Liberal government of this province. If you stop playing politics and decide to strengthen the Occupational Health and Safety Act, you will be doing what you were elected to do—protect the people of this province. If you decide to weaken the Occupational Health and Safety Act, you have to sleep at night knowing that the consequences of your decisions will probably kill someone.

We think that enforcement of the act is sadly lacking. It should be made compulsory for the inspectors to issue orders on every workplace anomaly they find. Enforcement now is dictated by the whims of a district managers or inspectors. If the Ministry of Labour demonstrates to management and workers that it takes infractions of the act seriously, it would go a long way in reducing workplace injuries and illnesses.

Bill 162 has already done an injustice to the workers of this province. Bill 208, if made strong enough, can help workers in not becoming WCB statistics.

We have heard employers complain that if this bill is not watered down, the cost of workers shutting down jobs would be prohibitive. We also hear employers complaining about the high cost of WCB assessments. Some \$1.45 billion was paid out by the WCB in 1987. Employers can reduce their WCB costs by having safer workplaces, but history has proven they will not do that.

If we are ever going to stop hurting workers, we need progressive steps to be taken in developing workplace legislation. Workers want to collect wages, not WCB benefits or pensions. Stop hurting us, and everyone wins.

The Chair: Thank you for two very comprehensive briefs. We have only about five minutes left, which I regret, but that is the fact.

Mr Mackenzie: I want to thank the Steelworkers. Even admitting my biases, I think it is a very powerful brief.

I am wondering if you are as surprised as I have been to find some of the management people, particularly in the mining industry, at the hearings in Sudbury and Timmins and so on asking for the defeat of this bill, in effect, and arguing that the right to refuse is going a little bit too far, the certified representative approach, when they have in several cases already negotiated these benefits with you people. There is an anomaly there that I just simply cannot understand.

Mr Glibbery: It does not make sense, and we have had it since 1981. We have not abused this right. We have had that right all along. I do not think any other union will abuse the right. Come on, we want to work. We are not going to shut them down frivolously. We just want to stop, as Chuck said, the carnage in the workplace. I could not believe it in Sudbury when a management person did not even know his collective agreement.

Mr Mackenzie: He had to ask you, as I recall.

Mr Glibbery: He had to ask us in the Steelworkers what our collective agreement said. It is clearly in our job descriptions and in our collective agreements that we can shut it down and we can issue remedies to that problem, and we have not done it. When somebody has a problem in the workplace, he brings it to his supervisor, and if the supervisor does not want to do anything about it, he goes to the worker representative or inspector or certified member. Then he, in turn, shuts it down. Nobody has abused it. We have not shut it down for no reason at all.

Mr Mackenzie: Were you also surprised to hear that in the early hearings before this committee the new Minister of Labour, who suggested the amendments, said that he had researched carefully and had not been able to find examples of contracts that included this?

Mr Glibbery: If that was my researcher, I would fire him, because when we see a Minister of Labour who says it is not in collective

agreements—we have shown it to you, and Rio Algom and Denison Mines, in their briefs in Sudbury, have shown it to you. That does not take much research. We have known we have had it for a long time, and I am sure he was looking for it.

Mrs Marland: I must say, having sat on this committee when we had the hearings on Bill 162, there is some irony in what we are hearing on this run around the province. As you know, the Progressive Conservatives voted against Bill 162. During that time, of course, the unions and the injured workers in this province gained the support of our party because of the fact that we were concerned, and we are still concerned, about worker deaths.

The examples that you gave this morning about the malfunctioning equipment, the scoop tram and so forth, are all examples that we are concerned about. I am just saying that it is ironic that you are here this morning saying that something the previous minister, Mr Sorbara, did is something we are lauding now, after what he did to the province with Bill 162.

Nevertheless, what I am having difficulty with in this bill is, when we have something that exists that is not working, as you have just shown with your examples of the equipment and the intimidation of those workers and the jobs they were given as alternate work, how do you see that it is going to be any better with this bill? I know we are going to have certified workers and a committee and all these good things, but how are you still going to eliminate that intimidation factor where those workers are forced to go into another workplace? You have talked about the penalty box. That is abhorrent in 1990 in this province.

Mr Glibbery: Management agrees with it. They say, “Yes, it is a penalty box,” and that is where they go.

Mrs Marland: That is disgusting.

Mr Glibbery: We know it is, and management should be charged over it. How do you bring it to light?

We had a worker who lost both his legs last year because he did not know the scoop tram brakes were faulty. He did not know it. They were leaking and everything else. He was sitting at the face and was he working. That worker turned around and the scoop tram moved ahead and cut both his legs off. Management was charged and it was at fault. There were 10 orders issued by the Ministry of Labour. They were charged a total of \$7,000. What did they put, \$3,500 on each leg?

Two years prior to that, Rene Perron was fatally killed in Elliot Lake. He pointed out to management about a faulty gate system at the Stanleigh Mine, told management about it, had it on paper. They were charged. They were issued a \$5,000 fine. You tell me why workers should refuse.

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Mrs Marland: I also was on the committee that went into 17 mines around this province. You do not have to convince me about that.

Mr Glibbery: Well, we have to convince somebody.

Mrs Marland: What you have to try to convince us of is how this is going to stop that kind of, as far as I am concerned, criminality in terms of responsibility in this province.

Mr Glibbery: Money.

Mr Frayn: If I just might add to what Wayne has already said, intimidation is definitely out there. It is in every workplace. We have it at Algoma Steel. We have a well-run program, but we still have a form of intimidation. You are not going to eliminate it. We have to deal with it. We have ongoing programs trying to deal with that, through counselling and whatever, but if you have the certified worker who is a responsible, well-trained worker representative, who has the right to shut down that equipment, he is going to protect that worker until the problem of his intimidation can be corrected. But the bottom line is he will not be suffering an injury and then we will be going in and dealing with the intimidation.

The Chair: We are virtually out of time. Would you allow Mr Wildman to put one brief question?

Mr McGuinty: Is it within the time allocation?

Mr Wildman: I want to congratulate Wayne, Wyman and Chuck on excellent briefs. I just have two matters I would like you to comment on.

First, could you explain what is wrong with the suggestion of immediate danger or imminent danger? Elliot Lake workers would be familiar with that. And Chuck, if you could comment on the suggestion or discussion this morning by the Sault Ste Marie Construction Association about how well things are working now and the example that was used about the procedure with elevated platforms at Algoma Steel.

Mr Glibbery: On imminent danger, we had it in the federal legislation. It is out now. Imminent

danger for a miner means that if there is a piece loose in the back and it is hanging there, it is not dangerous until it is in the air just about to crush you. That is what imminent danger is; it is about to happen. That is all. I cannot even explain it any better than that. If it is loose and it is sitting there and we know about it, it is not dangerous; only when it is in the air. That is what imminent is. That is why the Canada Labour Code has taken it out. That is why we do not want it introduced in this bill.

The Chair: You had another question?

Mr Frayn: I found it very interesting, listening to his presentation, that he made reference to the lifting device. We became aware of the lifting device in Algoma Steel after it was already in the workplace, when the outside contractors were using it. To our amazement, upon investigating the operation—because we have had a few near misses involving the equipment—we found that there were no safety procedures in practice, nor were the workers really adequately trained in regard to all the safety problems that may exist for that particular piece of equipment.

It was as a result of the joint committee that we have at Algoma Steel that we implemented a procedure for safe operation and for training on that. That was then taken to the construction association, or the construction people who were in Algoma Steel operating this equipment. That is how that came about. It was not because of the construction association having prepared its people before going on the job site.

We have many problems in Algoma Steel with outside contractors. They are not a well-trained group when it comes to safety and health. They are great trades people in their jobs, very efficient, very productive, but they lack the one thing that every other worker in this province lacks, and that is good safety training.

The Chair: I wish we had more time, because your briefs were very comprehensive, but we do not. So thank you very much for your presentation.

Mr Dietsch: Mr Chairman, while the next group is coming up to the table—

The Chair: Let me call them, will you? The next presentation is from the Sault Ste Marie Injured Workers' Association. Would they take their place at the table, please.

Mr Dietsch: Wayne is within hearing distance. I wonder, while he is meditating over some of the presentations, he might want to consider who is going to take the risk and the time

and the expense to remove the balloons from the ceiling.

Mr Glibbery: If that is what you are worried about, Mike, balloons on the ceiling, you should go underground.

The Chair: Some questions are better not asked. Let us proceed with the final presentation of the morning, from the Sault Ste Marie Injured Workers' Association. If you would introduce yourselves, we are in your hands.

SAULT STE MARIE INJURED WORKERS' ASSOCIATION

Mr Jolin: Good morning. My name is Pat Jolin, president of the Sault Ste Marie Injured Workers' Association, and I have with me my acting vice-president right now, Maria Brunetta. I am pleased to address, on behalf of the injured workers in Sault Ste Marie, this committee concerning the proposed Bill 208. I further might add, which is not in my brief, that I hope these Liberal members right now are a little more content to listen before this bill is pushed on us like Bill 162 was, and they are here with open minds, not with their minds made up to go ahead and pass this thing on their own accord. Thank you.

Before detailing the specific concerns injured workers have with the amendments contained in Bill 208, I would like to take this opportunity to state what it is like to be an injured worker, which will stress the importance of not being injured on the job. I would like to talk about the personal, family and financial problems that occur and to touch upon what we perceive as not only a lack of assistance from the Workers' Compensation Board but a cutting back of benefits. These benefits, meagre though they were in the past, are significantly less now with the advent of Bill 162. We therefore oppose any weakening of the Occupational Health and Safety Act, and instead we advocate strengthening the worker's ability to make workplaces safe and to refuse unsafe work in the hope that fewer members will be available in the future to swell the ranks of our organization.

We consider that it is a crime that injured workers should be forced to organize to protect their rights to reasonable treatment and benefits. These were rights that were originally given to us in the Workers' Compensation Act of 1914. We gave up the right to sue negligent employers in exchange for those benefits, and the result is that we now have neither adequate benefits nor the right to sue, which is given to all other accident victims who are hurt elsewhere but at work. We

now wish to join with the labour movement to protest the undermining of occupational health and safety.

The problems facing injured workers: Today the typical injured worker who retains a permanent physical injury cannot return to his or her pre-accident employment. An injured worker who is permanently disabled frequently faces the loss of his life's work, and many injured workers are untrained for other work.

Financial problems frequently result in the beginning of a claim for workers' compensation benefits. This results from the slowness of the Workers' Compensation Board in assessing a claim and, of course, if it is not perfectly clear that the accident is a workplace injury, then the burden of the proof is on the injured worker to establish this.

Many injured workers are people who have maintained their identity through their work. Thus, when they are permanently injured and cannot return to work, they experience a significant loss of self-esteem. This is especially important when men who are in traditional families are considered the breadwinners.

There is also a significant problem with the injured workers becoming adjusted to their injury. They will never be the same again. They will never return to their previous state of health or mind. This, plus their burgeoning financial problems and their diminishing role in society, as they see it, often leads to problems with self-esteem and depression, which is sometimes as severe as clinical depression which could lead to psychological disability. The frustration the injured worker experiences with the Workers' Compensation Board enhances this problem still further. Also, family problems frequently result because of the pressure on the family due to the financial problems and the anger and frustration of the injured worker.

To many injured workers, there appears to be little hope or light at the end of the tunnel due to the restrictive policies of the Workers' Compensation Board concerning assistance for rehabilitation, as well as the Workers' Compensation Board's policy of terminating benefits with little or no notice and, frequently, no written explanation.

Those who become injured in 1990 or in the future have even less to look forward to unless Bill 162 permanent disability pensions are gone and, instead, minimum awards are now made for permanent disabilities. There continue to be restrictive policies concerning rehabilitation services, and the policies concerning various

supplements change frequently. No benefits provided by the Workers' Compensation Board can be relied on by an injured worker for a steady income.

Injured workers may appeal adverse Workers' Compensation Board decisions, but there is a long wait before an appeal is scheduled. Also, there are too few trained representatives available due to the enormous number of appeals being sought by the injured workers. Many of these appeals are disputes over the validity of Workers' Compensation Board policies, and these issues cannot be determined at any level of appeal other than the Workers' Compensation Appeals Tribunal.

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Section 86n of the Workers' Compensation Act places such appeal issues in jeopardy because favourable decisions are either overturned or stalled by the Workers' Compensation Board. A frustration which is common to both injured workers and their representatives is that even when injured workers win an appeal, in reality they lose. Appeal decisions seem to generate further appeals on peripheral issues and it is our experience that one may have to appeal the same decision in other contexts as other benefits or supplements are applied for and refused. Also, decisions may be made for temporary benefits, in which case the injured worker has to reapply and possibly appeal again.

All injured workers may not feel the same degree of disillusionment and frustration concerning the Workers' Compensation Board and their injuries. However, this is certainly the average case as concerns older injured workers who cannot return to their regular employment, who are not considered retrainable due to age, lack of academic background or other physical problems and who see all that they have accumulated during their working lives eroded by lack of financial support.

These injured workers are frequently forced on to the welfare rolls when benefits are terminated. This situation is also true of injured workers who suffer serious injuries such as amputations and chronic serious back injuries, many of which require major surgery that may or may not alleviate their symptoms or pain.

This is the future that all injured workers who are injured on the job may face. The only way out is to get back to work at a decent wage and if you are too old, have too few skills or are too seriously injured, it is a long struggle to keep your head above water and many cannot.

I would now like to take this opportunity to bring out some statistics on death and injuries in the workplace during the past decade. These statistics come from the Workers' Compensation Board and they are contained in a recent publication by the Ontario Federation of Labour.

In the year 1980, there were 315 deaths; total claims 444,674; total lost-time claims, 165,221; permanent disability claims, 4,489. In 1981, 274 deaths; total claims, 415,044; total lost-time claims, 163,366; permanent disability claims, 5,019. In 1982, 230 deaths; total claims, 349,747; total lost-time claims, 148,713; total disability claims, 5,998. In 1983, 240 deaths; 344,758 total claims; total lost-time claims, 147,666; total disability claims, 7,810.

In 1984, 245 deaths; total claims, 388,845; total lost-time claims, 172,002; permanent disability claims, 9,238. 1985, 199 deaths; total claims, 426,880; total lost-time claims, 188,461; total disability claims, 8,294. In 1986, 208 deaths; total claims, 442,080; total lost-time claims, 203,241; total permanent disability claims, 9,002. 1987, 238 deaths; total disability claims, 469,681; total lost-time claims, 209,255; permanent disability claims, 9,428. As of 1988, the deaths are 293; the total claims are 489,819; the total lost-time claims are 215,184; to this date, we do not have the permanent disability claims for the year 1988.

As you can see, under the present Occupational Health and Safety Act, the numbers of injured workers are growing steadily. There are more deaths, more total lost-time claims and more permanent disability claims each year. There are many injured workers being created in Ontario on a daily basis.

I would further like to point out that these statistics only reflect those injuries which are accepted by the WCB as job-related accidents. These statistics do not reflect the many injured workers who are temporarily ill or who have died of industry-related diseases. Few of these types of cases are accepted by the WCB. A worker in this kind of situation must overcome an enormous burden of proof to establish his claim, which could take years. These years are frequently not available once the injured worker is diagnosed as having the disease.

Concerns regarding Bill 208: at this point I would like to address the changes to the legislation which are proposed in Bill 208. As an injured worker I would like to start off with section 33 of Bill 208, as this particular change pertains to the amendments to the Workers' Compensation Act.

It proposed that section 91 of the Workers' Compensation Act be amended to add subsection 91(6a). This particular section provides, "The board may take into account recommendations made by the Workplace Health and Safety Agency established under the Occupational Health and Safety Act in reaching its opinion under subsection (4) or (6)."

When looking at the existing legislation, this new subsection has the effect that the board may at its discretion increase the amount of the employer's contribution to the accident fund. They may also decrease it, depending on an employer's commitment to making the workplace a safe place.

Although this amendment is generally beneficial in terms of being supportive of safe workplaces, it would seem to be more reasonable to make it mandatory that the board raise the employer's contribution in the case of an unsafe workplace. It must be made to be more cost-effective for employers to comply with the legislation rather than to ignore it, before the existing situation will change.

Other more general concerns we have regarding changes to the existing Occupational Health and Safety Act are as follows:

1. Bill 208 now provides that a certified worker can stop work; however, a certified management employee can come along and start the job up again. We feel that this undermines the rights of workers in a situation that they consider unsafe. If workers and management cannot agree concerning whether a situation is safe or unsafe, then it is our opinion that a ministry inspector must be called in prior to a stop-work order being cancelled.

2. When a worker refuses a job because he or she believes it is unsafe, an employer should not be able to find another worker to do this job until the situation is resolved. Of particular concern is the fact that an employer may very well assign the refused job to a new employee or to an employee who is on probation, who will likely feel that he is not in a position to refuse the job. This could result in blatant intimidation of employees by the employer.

3. Bill 208 provides that a certified worker may investigate a worker's complaint. We feel that there should be a requirement that the certified worker must investigate all claims by workers.

4. Workers on the job may be faced with very technical issues, especially concerning new technology and possibly new toxic substances. We therefore feel that workers should have the

option to call in technical advisers or experts, and that these advisers be free to come into the workplace to inspect or monitor the problem and advise the workers of how to proceed. Such advisers should not be refused entry by the employer.

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5. The way that Bill 208 defines a biological, chemical or physical agent appears to be a problem, in that the ministry will not require information and testing if it has been used in any workplace elsewhere in the world. We believe that any such materials should be tested by the ministry if the ministry has not previously tested them. This will provide a record of these materials.

6. Bill 208, as it is presently structured, allows a certified worker to stop work only if he ascertains that there is an immediate danger that is also a contravention of the law or the regulations. Injured workers believe that this is too strong a requirement. There are many dangers obvious to the workers in the workplace that are not specifically addressed in the legislation or the regulations. We believe the workers should have the ability to stop work where there is a reasonable cause to believe that the work is unsafe.

7. In addition to the right to stop work, injured workers believe that to ensure there is a truly safe workplace, certified workers should also be able to issue orders concerning hazards which, although they may not pose an immediate danger and therefore do not require that the work be immediately stopped, still pose a hazard which should be corrected. The effect of such orders would force the employer to respond to the situation or to call in a ministry inspector.

8. Injured workers would like to see a civil or administrative penalty that provides for an immediate citation or fine when a violation is discovered in the workplace. We think that this avenue should be pursued rather than employers having to be prosecuted. This would be similar to the construction safety branch inspectors who are able to issue on-the-site citations for violations of the act or regulations.

The problem with the prosecution process, as viewed by injured workers, is that this very frequently does not result in adequate enforcement of the legislation due to the low number of inspectors per workplace and the onerous task of gathering evidence needed for the prosecution. This system results in only very, very serious violations going for prosecution.

Alternatively, if the practice of prosecution is continued, we believe there should be a minimum fine for violations. This minimum fine should be sufficient that it does not give employers a licence to contravene legislation. It is our belief that it should be more cost-effective for employers to comply with this legislation rather than defy it.

It is our understanding that the Liberal government has proposed additional amendments to this bill.

Our immediate concerns address the following issues:

1. Injured workers agreed with the current proposal in Bill 208 that expands a worker's individual rights to refuse unsafe work by including "activity." The inclusion of the word "activity" meant that workers could refuse to lift a heavy load or do repetitive actions that could lead to repetitive strain injuries. This was a clarification of a decision by the Ontario Labour Relations Board which had already expanded this right to refuse to include such activities.

It is our understanding that the provincial government proposes to restrict the definition of "activity" to apply only to the current or immediate dangers, like lifting, and to exclude ergonomic or design problems that lead to the long-term, repetitive strain injuries. This is an issue which is particularly sensitive to the injured workers because of the difficulties we have in pursuing claims for wear and tear injuries with the WCB.

2. Injured workers are particularly concerned about a proposal by the provincial government to differentiate between good and bad employers concerning the right to shut down the workplace. As we understand it, the proposal requires agreement between labour and management or the intervention of a third party, such as a ministry inspector, where the employer is considered to be a good employer. We believe that this limits the workers' right to shut down an unsafe operation. We have a concern that this undermines safety in the workplace, since of course one way a bad employer becomes a good employer is simply to stop reporting and to cover up accidents. We believe that the number of claims for Workers' Compensation will very clearly be a major factor in the determination of who is a good and a bad employer.

As you can see, we the injured workers' of Ontario have our own battles to fight. We are dissatisfied with the legislation concerning benefits for injured workers and consider that reasonable legislation should allow us to main-

tain our homes and all that we have accumulated during our working lives, plus allow us the right to retrain for work of equal economic value and to re-enter the workforce at the level we were at before we got injured. In our opinion, Bill 208 offers losses to the working people of Ontario in that the right to make workplaces safe is diminished. Pressure exerted by employers on government indicate it is more economically feasible to injure workers than to guarantee a safe workplace.

We are categorically opposed to any changes that lessen workplace safety; instead, we encourage even more stringent rules to enforce workplace safety. Our intention in this recommendation is to reduce accidents and deaths in the workplace and therefore prevent people from being in the position our members are now in.

In closing, I would like to state that all working persons should be aware of the danger that this bill poses to them, their families and their friends. Life, to a permanently injured worker, is not rosy.

We further recommend that unions give their support to their injured members and help those of us who are already victims of unsafe workplaces with their support for our cause. Join with us as we are joining with you here to present a united front to prevent accidents and therefore stop the increase in injured workers. For those of us who are already injured, help us fight for adequate resources so that we can gain benefits rightfully ours without losing everything to lawyers' fees because there are so few trained representatives who are able to act for us without charge.

Help us lobby for changes in the workers' compensation legislation. Change that benefits us will occur only when all working people join together and represent a major force in this province. A coalition of labour and injured workers can achieve that goal. Thank you.

Mr McGuinty: Thank you very much, sir. In a sense, you speak from the vantage point of the most qualified of all people: those who have been victimized. I do not have many Workers' Compensation Board cases in my riding of Ottawa South. It is not an industrial area. I spoke with my very respected colleague Alan Pope in Timmins the other day and he tells me he has 4,000 files current.

When you state on page 3 that it is the Workers' Compensation Board's policy to terminate benefits "with little or no notice and frequently with no written explanation," and then later on, at the end of that paragraph, "No benefit

provided by the Workers' Compensation Board can be relied on by an injured worker for a steady income," is it really that bad, Mr Jolin?

Mr Jolin: Yes, it is very bad. Here in Sault Ste Marie alone, I represent many cases, including my own. At the time you get your benefits and your pension rated, what could very well happen is that you go to a retraining program or reschooling and, in the event that you do not qualify for a certain retraining program or if it is not available, they keep you on only a certain length of time and you are actually, to an extent, harassed. If you do not come up with a number of job places where you looked for employment, suitable to any kind of a retraining program, they literally cut you right off, and the benefits that you have to live on are your pension, if you do get one, and then there is a lengthy waiting period which sometimes takes weeks, and I have seen it take months.

Meantime, you have either got to live on savings that you have or you have to go on welfare. Most of the time on welfare, the situation is they will not even give it to you if you own your own home or if you own a car. You have to literally sell what you have to try to make ends meet.

Mr McGuinty: Part of the fun of this job is, on occasion, being able to help people and I have had experience running interference for people, which does verify to some extent what you have just said.

On page 5, these are very fascinating figures. We get figures from a lot of people. We had figures from Falconbridge management the other day which indicated in a rather impressive way that deaths and injuries have declined remarkable in the last eight to 10 years.

Has there been an analysis of this? Why are we having this, to my mind, obscene increase in deaths, in claims, in permanent disabilities? Is it because more are being reported or in fact more are happening? If more are happening, why the hell are they happening? Has there been an analysis of this? You have some curious skewing of the figures. From 1980 to 1984, for example, you have a decrease; then you have an increase; then somewhat the same; and then you have this horrendous increase in permanent disability claims from 1984 up to 1987. That is just incredible. Did you ever have an analysis to determine why these trends are taking place?

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Mr Jolin: Yes. To my knowledge this is a very up-to-date publication put out by the Ontario Federation of Labour. The only thing I have

heard in conversation with anybody in that field is that what has been happening over the years is that the different modifications of instruments and machinery coming into the workplace has caused problems. The problem is the men are not adequately trained before they get on this machinery or into this workplace. It causes physical problems, mental and stress problems, and if there were better training under the Health and Safety Act before they got into that workplace, I believe it would eliminate a lot of it.

It is happening over the years. The number of deaths has been variable. The total claims have been increasing instead of decreasing. On the lifetime claims, my own personal finding is that the employers are relying more and more on trying not to hire back the workers who have been injured in the workforce. They will find some kind of reason or explanation to put them in a training program or gradually weed them out. They do not want them back on the job. If they do hire them on the job, they are harassed to try to force them to quit their job and they are steadily depressed and get weary. That is where the lost-time claims come in. It is very weedy situation, because year to year, as in any other situations, it varies.

Mr McGuinty: I thank you for a very impressive presentation, sir. We appreciate it.

The Chair: A final question, and we really are out of time then.

Mr Wildman: Again, I want to congratulate you, Pat, on the comprehensive brief and your representation for injured workers in the area.

Just following along from what Mr McGuinty was asking you, I think what is most alarming, besides the fact that the deaths are staying about the same—down slightly for that period—and the total claims are up somewhat, is that lost-time claims are up substantially and permanent disability claims have doubled. Do you think the proposal you make for certified workers—not only with the right to stop work in unsafe working conditions but also with the right to write improvement orders that would not necessarily require work stoppage but would require the management to resolve the potential danger—would go very far to lowering these very serious increases in permanent disabilities?

Mr Jolin: Yes. The idea is not to shut down a workplace. The idea we are all trying to get across to the ministry is that we are not trying to shut down a workplace to cause people to be off work or to cause some problems in the workforce. The idea we are trying to get across is that if

there is an unsafe object or an unsafe piece of equipment or anything unsafe that pertains to the job the workers are asked to do, they should have the right to refuse that job and they should have the right to ask for a company representative or government inspector to come in and clarify that it is safe.

Will the employer be responsible for the worker's death or injury? At the time, he should not have to take the harassment of losing his job, of being harassed and being put back in another job which is called a punishment job until it is rectified. There should be somebody there on the job, trained and qualified for that situation, to be able to feel it out and go back to the supervisor or the employer and say, "We want this job rectified now."

The Chair: I am sure I speak for the committee when I say it is obvious a lot of effort went into your brief and we do appreciate that effort.

Mr Jolin: I would like to ask one more question, if I may, of Margaret Marland. I would like to know how you are going to vote in my respect; fighting for the injured workers' associations across Ontario. You voted against Bill 162. For our association membership here as well as all over, I would like to know what your feelings are and how you plan on voting on Bill 208.

Mrs Marland: I appreciate the directness of your question. At this point, I am not voting in favour of Bill 208 as presently structured. I asked the minister directly, when he was before the committee before we went on the road, specifically what the amendments to the bill would be so I could know what it was we were dealing with. From what I understand the amendments might be, I am opposed to the bill presently. I am opposed to it, ironically, for both areas, both the areas of the workers and some of the areas of the management.

The Chair: That is the last presentation of the morning. For members of the committee, could I ask if you would check out of your rooms because we are going to be very tight getting to the airport, particularly in view of the weather. We do not have to check out at the counter; you are officially checked out. Bring your luggage in here so that when the last presentation is over we go directly to the airport, because there will not be any time to spare. I would encourage you to do that. The next presentation is at 1:30, and there are reservations in the dining room for us.

The committee recessed at 1237.

AFTERNOON SITTING

The committee resumed at 1336 in the Grand Hall, Best Western Water Tower Inn, Sault Ste Marie.

The Chair: The standing committee on resources development will come to order. I am happy to tell you that all of our electronic equipment is now working the way it is supposed to work. That includes the translation services. We apologize for our problem this morning, because when the electronic equipment crashed so did the translation services. We apologize for that, but we are up and running at proper speed now.

As I indicated earlier this morning, we have a fairly tight schedule so we will start immediately. The first presentation of the afternoon is the Adams Motel. Gentlemen, we welcome you to the committee this afternoon. One of you I recall from the Sudbury area before. You have 30 minutes that can be used by yourselves or partly in exchange with members of the committee.

MOTELS ONTARIO

Mr Malcolm: Thank you for giving us the time this afternoon to make this presentation. I am one of almost 1,600 independent owner-operators of an Ontario motel. With my wife, I run the Adams Motel on Great Northern Road here in Sault Ste Marie. We have been doing so for over 10 years now. It is a 30-unit motel, graded four stars under the Tourism Ontario grading program. I have been heavily involved with local tourism associations here in the Sault.

My colleague here is Dan MacLellan. With his wife, he owns and operates the Old Mill Motel in Blind River. It is a 37-unit motel, graded three stars. Dan is also heavily involved in his local community.

I am also currently chairman of the board of the Motels Ontario association. It represents the independent Ontario motel owner and operator. With almost 1,000 members, Motels Ontario currently represents 64 per cent of Ontario's motel industry. Mr MacLellan here is also a director.

We are speaking to you today not specifically as directors of Motels Ontario, but as independent motel operators trying to survive in the face of ever-increasing federal and provincial government taxation and ever-increasing provincial regulation that make it more awkward and expensive to do business and a dramatically declining tourism marketplace.

We are very distressed with what has occurred with Bill 208. After the bill was first introduced into the House, our association, along with a great many other business groups and associations, carefully reviewed it and made detailed submissions to your government, pointing out areas that must be changed to make it more equitable for both the worker and the employer.

Up until last fall we had thought that this co-operative process was working. We had been told by government officials that the bill would be extensively reworked to reflect many of the necessary changes or else withdrawn. We were understandably quite shocked when the bill was reintroduced into the House for second reading with virtually no changes whatsoever. Your committee is now touring the province receiving submissions from interested parties. We are now in the frustrating position of having to repeat our original comments in the hope that this time a number of equitable changes can be made before the bill goes to third reading.

We completely support the submission of the Tourism Ontario federation and we also support the submission that will be made by the Canadian Federation of Independent Business, of which we are a member.

We stress that we are strongly committed to the continuing and increased education of our employees to safe work practices. I will give you just two concrete examples as proof of this.

I, personally and on behalf of Motels Ontario, in conjunction with the Tourism Ontario federation, successfully lobbied government two years ago to implement the new experimental experience rating program regarding our workers' compensation board premiums. NEER is currently in its second year of operation. NEER rewards those employers that run safe, accident-free operations with rebates on their WCB premiums. It also penalizes with surcharges those employers with unsafe operations. I am proud to state that for rate groups 890 and 898—motels, hotels and restaurants—the overwhelming majority of operators received rebates last year on their first year of operation under NEER.

The tourism industry also successfully lobbied for and launched, with government backing and WCB assistance, the tourism and hospitality industry health and safety education program, THIHSEP. This is operated out of the WCB offices in Toronto. Its goal is continued and

increased education for employers and employees of the tourism industry towards better safety measures. The tourism industry has placed a five-year commitment behind THIHSEP. Industry associations, including Motels Ontario, have members on THIHSEP's advisory board.

In demonstration, I have here a current copy of a newsletter on safety and handling procedures that is regularly published now and goes out to all employers for the benefit of employers and employees. They have been out, and I have personally been involved with some of the local people in the area, going into the industry and operations and reviewing both with the employer and with the employees ways to increase safety in their operations. This is being embraced and very well taken by the employers in our industry.

Motels Ontario, the Tourism Ontario federation and other tourism associations in Ontario have made a significant commitment of time and effort to both NEER and THIHSEP. These are but two concrete examples of our strong commitment to worker safety.

We are aware that the Minister of Labour (Mr Phillips) has put together a package of proposed changes to the bill. However, the government's commitment to these changes has not been clearly stated. The changes are not in amendment form. Some changes to these proposals go some way towards meeting employers' concerns, but the most important issues raised by the bill remain unaddressed. For example, the stop-work issue is framed only as a possible approach with not even the weak commitment of the proposed changes.

Motels Ontario will make its own further written submission on this bill. Rather than take up your time revealing it in detail, I wish to bring our concerns to your attention this afternoon.

Regarding stop-work, we recognize that the stop-work provision shuts down the particular operation in the business that is deemed unsafe and not the entire business. Its impact on the tourism industry, however, could be devastating. For example, many motels have separate operations to their overall business. There is the bedroom accommodation segment, the restaurant or coffee shop segment and often a recreational segment. If a motel's restaurant is shut down, it directly affects the entire business. The motel's clients are staying there because of the motel's entire facilities package; namely, bedrooms, restaurant and recreation. For motels or resorts in isolated rural locations, a customer cannot merely cross the street to obtain a meal in the case of a restaurant shutdown.

The tourism industry has an excellent safety record for the great majority of its operations. We are deeply committed to worker safety. In all tourism operations our strength is our people. The most important single segment in tourism is customer service. This can only be provided by our valued employees.

Regarding stop-work, we ourselves and our association strongly believe that the individual's right of refusal coupled with improved worker training about its use will protect worker safety. In the alternative, a formalized consultation process leading up to a stop-work could entail a certified worker representative consulting first with the immediate supervisor; then immediately bringing in the certified management representative or designate if the situation is not resolved; then, if necessary, calling in the Ministry of Labour, which would have the power to stop work.

Our concern with stop-work, as it is presently proposed in the bill, is that it will move the situation away from workplace partnership towards conflict and polarization. It could lead to great abuse. The present right-to-refuse provisions effectively protect worker safety. Giving a unilateral stop-work provision to a certified worker would not necessarily improve safety performance. It certainly does not support the need for co-operation. As I have stressed before, the tourism industry is in close co-operation with its employees since customer service is the major commitment of the package that we market to consumers. Occupational health and safety is a shared responsibility between employers and employees. This partnership must be preserved and enhanced.

It is misleading for the Ministry of Labour to suggest that the employer has the final say in implementing a work stoppage. Bill 208 clearly states that upon receipt of the directive from the worker, the employer must immediately comply. The business owner must then wait for the Ministry of Labour inspector to arrive to further investigate the situation. The bill does not provide any commitment as to how long it may take for this inspector to arrive and help sort out the problem before the workplace is allowed to start up again. That would particularly apply to places like northern Ontario, where the hotel up the highway here might have to wait a day or two days for someone from, say, Sudbury to get over here and resolve a situation. This would be totally unreasonable and unfair.

The ministry has stated that the experience of the mining industry shows that the power to stop

work has been used responsibly. The fact is that the stop-work power has been negotiated with only eight mining companies in Ontario. Even in these cases, no worker inspector has been given the unilateral power to shut down a mine. Instead, the worker inspects these mines and pursues joint action with his or her mine supervisor. In fact, the unilateral power of an employee to shut down the collective work of other employees, in addition to his or her own individual right to refuse work, is unprecedented in North America. Significantly, the Ontario Mining Association has joined the Canadian Federation of Independent Business and other employer groups, such as Motels Ontario, in protesting against this portion of Bill 208 as currently written.

The ministry has stated that the penalty for negligent use, or use in bad faith, of the stop-work power will include automatic decertification. We do not see decertification as an effective deterrent to abuse of an employee's unilateral power to stop work. Decertification will only be imposed by the new agency, which is to be half-comprised of organized labour representatives. If the big union representatives vote as one block and the business representatives vote as another block, an impasse will result. The ministry would then have to be called in to intervene in the situation, which by this time would be an extremely confrontational and political process.

1350

In the minister's proposed changes to the bill, we support his suggestion that there be joint representation on all stop-work decisions; namely, one worker and one employer. It must be a co-operative partnership arrangement. We suggest that the certified representatives be called certified training representatives. This would then give both representatives, the worker and the employer, the obligation to counsel workers engaged in unsafe practices. This would re-emphasize the joint responsibility of both workers and employers towards worker safety.

I have had personal experience in having worked in hazardous situations, as a worker, as a supervisor and, later, in management. I have come to realize that when most corporate and government procedures were ignored by workers or management was when these various situations occurred: (a) a confrontational atmosphere was in the workplace, (b) a lack of a joint safety committee at the foreman and worker level and (c) there was a lack of safety awareness and personal concern at the worker level. The answer

to this was worker involvement in training, peer pressure towards safety procedures and joint involvement with supervisors and management.

Regarding the proposed Workplace Health and Safety Agency, a means must be found for nonunionized workers to speak for themselves on this agency. More than 70 per cent of Ontario's workers have chosen not to belong to unions. In the tourism industry, 80 per cent of our workers are nonunionized. For worker equity, nonunionized workers must represent two thirds of the five worker positions on the board. Nonworker representation on the agency effectively disenfranchises 70 per cent of Ontario's workforce. If the government insists that nonunion workers will not be represented on the agency, then the agency should be restricted to an advisory role on training. The bill also fails to provide for ex-officio government representatives. We suggest one each from the Ministry of Labour and the Ministry of Industry, Trade and Technology.

The Ministry of Labour has stated that the proposed agency will not include enforcement powers for that agency. The fact is that this new agency will have a mandate that goes far beyond education, training and advising. In workplaces of more than 20 employers, a certified individual worker will have the enforcement power to stop work if, in the opinion of that single worker, working conditions are not safe.

The ministry has stated that the board of this agency will be comprised of individuals who reflect all major sectors of the province's economy. This is patently not so. The bill, as currently written, notes that all labour representatives will be selected from the Ontario Federation of Labour and other big labour unions. The ministry implies that an unorganized workplace is disorganized and has stated, "By its very nature, the unorganized portion of the labour force is difficult to represent." We are appalled at this undemocratic approach towards effective labour representation. There are thousands of existing joint health and safety committees in nonunionized firms with tens of thousands of very competent nonunionized employees readily available as a representative pool of talent for appointment to the new agency. We do not believe that exclusive labour representation from big unions will result in a balanced understanding for the very unique circumstances of small nonunionized work environments. Ninety-two per cent of all firms in Ontario have less than 20 employees. The overwhelming majority of tourism operations fall into this category.

Regarding mandatory elections of designated health and safety representatives, we believe that workers should not be required to be elected to serve on these joint committees in small businesses in the tourism industry with fewer than 50 employees. It is essential that the process in small firms be nonadversarial. A formal voting process is needed only where the ministry has determined that the firm has recurring problems.

Some other issues:

In the ministry's proposed changes to the bill, we applaud and support the removal of the requirement of a written health and safety policy for those workplaces with fewer than five employees.

The Ministry of Labour has stated that Bill 208 was formulated with the benefit of extensive consultations with business leaders. The facts are, however, that no draft legislation or detailed discussion paper was ever distributed prior to the introduction of the bill on 24 January 1989. Ontario's third-largest industry, tourism, was certainly not involved in any consultations leading up to the drafting of the bill.

The Ministry of Labour has stated that Bill 208 will not have a significant impact on most small businesses. The facts are that every small business with between five and 19 employees will be required to have labour and management polarized through a selection process to choose a health and safety representative. The bill excludes any right of management to be part of this selection process. Once the small firm's employee representative is elected, he or she invariably will look to the new union-dominated health and safety agency for guidance and support. We believe this will lead to artificial barriers in the structure and relationships within the small-firm sector. It will potentially lead to more confrontation rather than co-operation to address important health and safety issues.

Another fact is that almost all firms in Ontario, regardless of size, will be affected by the bill regarding an individual's right to refuse unsafe work. Under the new act, an employee's right to refuse a work assignment will be broadened if he decides in his own wisdom that the employer has assigned unsafe work activity. This could trigger an individual work refusal or slowdown for almost any reason under the guise of occupational health. We are worried that this unprecedented new right has been defined far too generally under the new act. It may now include additional refusals based on employee perceptions of psychological stress or disagreement over job description and so on.

Another fact is that almost all firms in Ontario, regardless of size, will have to fund the new workplace agency through their WCB premiums. This will have a rate of growth of up to 10 per cent in agency spending each following year. Ever-escalating WCB premiums are one of the most onerous costs of doing business for the small firm. The tourism industry has worked very hard to maximize worker safety and minimize WCB premium increases by launching NEER and THIHSEP. Bill 208 will negate many of the gains that we have made through NEER and ignore the excellent educational work we are doing through THIHSEP.

In conclusion, we re-emphasize that we share the government's goal of providing a safer work environment. We completely agree with the Ministry of Labour that this is best accomplished through improved education and training, and by encouraging the co-operation and involvement of all workplace parties. We also support the dual themes in Bill 208 of more effective involvement by the workplace parties in health and safety and providing better-quality training for workers and management. With the tourism industry's own tourism and hospitality industry health and safety education program, we have already started down this road.

1400

However, we firmly believe that many of the proposed provisions in Bill 208 will not move us towards these goals. Up until now, safe work practices have been achieved through the co-operative efforts of employees and management working together. Bill 208, as currently written, is contrary to the objectives of co-operation. We believe it will not improve Ontario's safety performance. Instead, we believe it will frustrate the co-operative focus necessary to maintain safe workplaces.

In the time remaining to us we will be pleased to try to answer any questions you may have to the best of our ability.

Mr Wildman: I regret that your industry was not consulted by the Liberal government in the preparation of the legislation.

I have just one question really. You pointed out that the vast majority of your workplaces, your firms, have less than 20 employees. That being the case, I do not quite understand why you are so concerned about the legislation. I understand your concern that there should be democratic representation of nonunionized employees. But you seem to contradict yourself when you say you want democratic representation of nonunionized employees and that to not repre-

sent them would be undemocratic and then you say you do not want them to vote for who should represent them. Is that not a contradiction? Voting surely is one of the components of our democratic system.

Mr Malcolm: I do not think that is the meaning of what we were trying to say there. The meaning was more that along with the vote of the employees there should be some management involvement or some owner involvement. In a small workplace of less than 20 employees where, again, many of those would probably be part-time employees, it might be that a new person is very popular with some of the employees and says, "Yes, I've got lots of time to serve on this," and others say: "No, I haven't. I'm busy. You do it." They might be very incapable of handling the situation and of really carrying out the job, whereas another employee might be far better able to take this and have much better ability in being educated to do it.

Mr Wildman: In response, briefly, it just seems to me that if you wanted to be democratic, surely the workers should be the ones who judge whether a co-worker is competent or not competent to represent them.

Mr Carrothers: I wonder if I can ask a couple of questions relating to the agency and your comments on its makeup. You have mentioned that the small workplace has some peculiar circumstances and you are concerned, if I have understood you, that it will not necessarily be represented on the agency. Presumably you are aware that one of the proposals that is floating around here is that there be a small business advisory committee as part of that agency. I am wondering if that type of special subcommittee, dealing specifically with the small business workplace and advising that agency on that, would be a way or a solution to the difficulty which you have outlined.

Mr Malcolm: I think that would probably be going very much in the right direction. Certainly our comments are not to take away from that, but when it comes down to the final board, my experience on a number of boards at times is that the board ends up making a decision regardless, that unless there is representation directly from that committee on the board, lack of communication, etc, does happen regularly and the concerns would not be properly met and looked after.

Mr Carrothers: I know the Canadian Federation of Independent Business was speaking to us and suggested that a certain number of the positions on the board should be for small

business. Is that the type of suggestion that you are concurring with then?

Mr Malcolm: Yes.

Mr Carrothers: Could I also ask about—you mentioned the problems of stop-work orders in your workplaces and you have outlined the difficulty, I guess. You specifically mentioned the kitchen in a hotel being essential and what would happen to your ability to service customers or clients at the hotel if that were closed. Right now there is an individual right to refuse unsafe work. Since your workplaces are pretty small, I am assuming that, say, in the kitchen, if some piece of equipment like the stove or maybe some machinery that is cutting food or whatnot is unsafe and if the worker that operates that machinery then says, "I feel I cannot work it, it's unsafe," that one individual might be the only person at that time who could operate that machine and effectively you have had a sort of stop-work situation. If my assumption is correct, how then would the changes being proposed by Bill 208 change the situation for you? In essence, I guess what I am saying is, does not the individual right to stop work in a small workplace effectively amount to an ability to close down a workplace, at least in the kitchen type of environment that you were mentioning specifically?

Mr Malcolm: This, as you describe it, could happen. However, mostly in small business the owner or management is so closely involved that when the cook phones in sick I put on the apron and go down and operate it.

Mr Carrothers: How would that be different? I suppose there is nothing stopping management from coming in and operating it anyway, is there?

Mr Malcolm: Per se not.

Mr Carrothers: Again, it is an example of specific peculiarities in the small workplace because in most large operations that is not possible, where the worker could be replaced by the president of the company.

The Chair: Thank you for your presentation. I think yours is the only small business brief that we have heard from in all our hearings, so we appreciate your presence here.

Mr Wildman: I have a question for our researcher. Could he clarify for us a point made here? According to this brief, no worker health and safety reps, certified reps, under the collective agreements in the mining industry have the right to shut down. I do not believe that is correct. You did look into that? Is it correct or not? For

instance, in Elliot Lake, do those workers not have a right to shut down an unsafe workplace?

The Chair: Perhaps we could have the researcher report to us later because we want to move on.

The next presentation is from the Ontario Public Service Employees Union. Gentlemen, we welcome you to the committee and we look forward to your brief. The next 30 minutes are yours.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

Mr Nice: My name is Fred Nice and I am chairperson of the Ministry of Transportation joint health and safety committee for the Ontario Public Service Employees Union. I would like to introduce my colleagues. On my extreme left is George Kerhanovich, the acting staff rep for OPSEU in the Sault Ste Marie area, Daryl Ford, a ministry employee from the Huntsville area, and Jack McCarty who is a Ministry of the Environment sewer worker and president of OPSEU Local 607 here in Sault Ste Marie. We would like to talk to you about the health and safety problems in our work and how Bill 208 fails to address them.

We represent close to 7,000 members in the Transportation ministry. We work in machine and road maintenance, road surveying, materials testing and vehicle inspection. Also, many of our members are in office and clerical jobs. Regrettably, far too many of my colleagues have fallen victim to work-related illness, injury and disease over the last 10 years.

1410

Since the act came into effect in 1979, more than 10 Ministry of Transportation employees have been killed on the job. In 1988, we had 97 accidents for every 1,000 employees. This represents an increase of 10 per cent since 1980. WCB data indicate that these injuries are becoming more severe. Days lost in 1988 as a result of accidents occurring in the previous year have increased by 44 per cent since 1980. In this same period, the industrial disease claims accepted by WCB have increased by over 84 per cent. Compensation costs for the ministry have increased by over 132 per cent since 1980.

Throughout this same period, the ministry used outmoded and inadequately ventilated asphalt-testing laboratories. That exposed many workers to dangerous levels of trichloroethane and silica dust. Internal MTO memos show that as far back as 1979 trichloroethylene levels exceeded threshold-limit-value guidelines.

Neither this information nor any warnings about the hazard were ever communicated to the workers.

Two years ago the ministry was forced to close most of its truck inspection stations after these were deemed unsafe by the Ministry of Labour. Many of our members were killed because they were not properly trained to perform their work safely nor were they provided with adequate safety equipment. Recently the ministry introduced a new program of one-person snowplowing, which is a hazard both to the operator and to the motoring public.

When Bill 70 became law in 1979 we thought we had gained some effective rights and protection. These expectations were soon dashed as it became quite apparent that the Occupational Health and Safety Act was an empty shell. Instead of the right to participate, we found ourselves members of paper advisory committees where the employer had two kicks at vetoing our concerns. Instead of enforcing the law, our inspectors soon became mediators and facilitators in what became known as the internal responsibility system.

Even when workers were killed as a result of a clear violation of the act, it took herculean efforts to get orders issued or prosecutions initiated. Instead of enjoying a clear right to refuse dangerous work, we frequently suffered reprisals from our employer, and other workers were intimidated by the employer into performing tasks that their fellow workmates had refused.

At this time, I would like to have Daryl Ford illustrate his experiences.

Mr Ford: I work out of Huntsville district for the Ministry of Transportation. Two years ago, five of my workmates and I found out we were breathing contaminated air in our air-fed sandblasting hoods while sandblasting a bridge in Bala. Our employer did not provide proper filtration on the compressor to prevent leakage of carbon monoxide and oil particulates.

When I filed a complaint about this with the Ministry of Labour, my supervisor threatened to transfer all the sandblasting work to private contractors and to do away with our jobs. When the inspector came to the site, my supervisor lied. He said the matter had already been investigated by another inspection branch, and so no investigation took place.

I filed further complaints with the ministry, but it took six months before this was actually investigated. It took another five months after that before charges were laid for contravening the act and endangering our lives. This happened

only after our union representative wrote to the Minister of Labour personally.

On another occasion, last winter, I refused to operate a one-person plow, because I felt it was dangerous. An inspector investigated and upheld my refusal. He ruled that it was likely to endanger me, but he refused to write an order because no regulation applied. Because there was no order issued, my employer viewed one-person snowplows as a safe operation and again insisted that I operate the plow. I refused to do so and another inspector was called in to investigate. It was my view that I was still on the original refusal because the operation was already deemed unsafe. But to my surprise, this inspector ruled that this was a new refusal and, contrary to the first inspector, the second inspector decided it was safe for me to operate the plow alone.

To complicate matters, a safety expert from Labour was sent in to investigate. His report noted several serious safety problems, but despite this, he also deemed it safe. After this, my employer again ordered me to operate the plow and threatened me with discipline if I did not. Based on my experience and the hazards pointed out by all three Labour people, I decided to refuse again. I was suspended immediately.

Throughout this whole ordeal, I was penalized and harassed continuously. For example, they would not even let me go on safety courses, even though they are paid for by the union.

Mr Nice: Thank you, Daryl. I would like to present Jack McCarty, please.

Mr McCarty: This situation is not very different in the Ministry of the Environment.

I am a sewage treatment plant operator here in Sault Ste Marie. We have just been through a really bad experience. The Canadian Pacific Railroad contaminated the ground water and the homes of people with a herbicide called Spike and this made these residents very sick.

A lot of political pressure was put on the company to remove the contaminated ground water. Without telling anyone, the CPR and the Ministry of the Environment decided to remove the water through the sewage treatment plant and then let it flow into St Marys River. When we heard about this plan, and with all we knew about Spike, we insisted that the water be pretreated before it came to the plant. That was to protect the workers at the plant and the environment too. But the ministry rejected this and started to move the water through the plant with very little warning and that is when we refused to be exposed to this at the plant.

This refusal was investigated by the Ministry of Labour. But before he issued their decision, our supervisor threatened us with suspensions if we continued to refuse. He even said this in front of the inspector. The inspector then gave us his decision, that the Spike was not likely to endanger us. Since he could not give us any independent scientific health information to support this, we continued to refuse.

Our employer carried out his threat and suspended us. But the next week they stopped sending Spike through the plant and they started a pretreatment program, just as we had suggested in the first place. That is when we returned to work. But the employer refused to withdraw the suspension. We filed a section 24 complaint for taking a reprisal against us. The charges were finally heard at the Ontario Labour Relations Board almost a year later. But on the day of the first hearing the employer lifted the suspensions and reimbursed us. Their case was so weak that the board encouraged them to do this.

1420

We were glad to win, but we felt really cheated during this whole ordeal. The Ministry of Labour tried to tell us the procedure was safe, even though some of the leading experts were questioning the safety of Spike. The ministry was not cautious when it came to our health, our employer threatened us right in front of an inspector and then suspended us, and the Ministry of Labour did nothing about it. They were condoning intimidation.

From my own personal experience I have learned that we have to be careful with workers' health. Before working for the ministry, 25 years ago I worked as a miner in the gold and uranium mines. I have lung cancer as a result of that work. I just had one lung removed last year. This could have been prevented if the safety laws had been stronger at that time. Let's not repeat our mistakes.

Mr Nice: Bill 208 is no help to workers. When the current Liberal government promised to introduce health and safety reforms in its early years, we expected the flaws in our safety legislation would be corrected. But instead of reforms, we received some minor improvements and a whole series of setbacks. When the new minister introduced recommendations to gut even those minor improvements, it became apparent that the government had no intention of addressing workers' needs.

Joint committees will not be made more effective by requiring our employer to give a negative reply in 30 days. In our ministry, the

Ministry of Transportation, we already have the requirement for a response within five days. They still have the unilateral right to veto our concerns entirely.

The bill provides for the training of one worker member of a joint committee. It is not enough to train only one worker. The emphasis on training ignores the fact that workers will continue to have little power to act on the knowledge learned in courses and to persuade the employer to improve workplace conditions.

We are glad that Bill 208 extends the provision of joint committees to the many workplaces that are currently excluded, but this is hardly an improvement if committees are merely advisory bodies with no direct power. Worker members of joint committees must be provided with a means to pressure employers to correct workplace hazards even though they may not be immediately life-threatening.

It would help if worker members had the right to issue provisional improvement notices which identify the hazard and give target dates for correcting the problems. Any employer not agreeing with this notice has the option to appeal to an inspector for resolution.

On the right to refuse, We are bitterly opposed to the changes proposed in Bill 208 that gut the right to refuse. Under Bill 208 workers are paid only during the employer's investigation into their refusal, but not if they continue to refuse and call in an inspector for an independent evaluation. This statement was confirmed by Assistant Deputy Minister of Labour Tim Millard when he stated, at a conference in March of last year, that after the employer's investigation, "When work stops, pay stops." This is a real step backwards. This opens the door to legalized employer reprisals. It forces workers to return to work when an employer deems it safe. This, in our view, takes away the worker's right to self-protection.

The new minister's recommendation to restrict the interpretation of "activity" to an immediate hazard to health is another step backwards. Our inspectors have already been supporting refusals for lifting heavy tools as well as work involving poorly designed tools or repetitive motion that could lead to chronic illness or injury. We thus lose what we already have.

Second, this interpretation imposes the condition of imminent danger on our right to refuse, a condition which was debated and rejected by the Legislature in 1978 when the current act was being considered.

Bill 208 still allows employers to assign another worker to a job that has been refused before it has been investigated by an inspector or been resolved. This practice negates the purpose of the right to refuse and condones negligence on the part of employers who purposely assign young or probationary employees in these situations. This practice must be prohibited.

The right of a certified member to shut down unsafe work would have been a real advance in making the internal responsibility system function, but the provision in Bill 208 imposes such onerous conditions that it will inhibit anyone from using it. As well, there is no guarantee that workers affected by a shutdown will be paid during the course of the shutdown. Employers can intimidate workers by alleging that the right to shut down has been abused.

We understand further that the minister proposes to gut what little has been given, by restricting it to "bad" actors; that is, companies with a bad safety record. This makes little sense and shows that the government has no intention to make any real changes in workers' rights.

We are particularly concerned that Bill 208 does little to enhance the enforcement of the act by our inspectors. Increasing the fine to \$500,000 will not act as a deterrent. The rate of prosecutions initiated by the ministry and the level of fines imposed by the courts are already low. Raising the legal fine will not change this.

Our ministry inspectors are not taken seriously when, in cases where our members have been killed, seriously injured or exposed to hazards, it takes close to a year before a prosecution is initiated. They are also not taken seriously when they uphold a work refusal because the condition is likely to endanger people but then refuse to issue orders because no regulation applies. They are again not taken seriously when they refuse to take any action when reprisals against workers take place.

We believe that worker protection demands that inspectors enforce the law aggressively. They should be obliged to issue orders when workers' health and safety is threatened. Similarly, they should be obliged to issue sanctions immediately when a violation of the act occurs. Our inspectors must have the clear power to stop a reprisal from taking place and to lay charges for this violation.

In closing, we would like to thank the committee for hearing us, but we would also remind the committee that there is tragedy brewing in Ontario's workplaces. It can be prevented only by strong and effective legisla-

tion, legislation which has as its sole purpose the protection of worker health and safety.

1430

The Chair: Thank you, Mr Nice. I think that Mr Wildman has a brief question. We are almost out of time.

Mr Wildman: In relation to the two cases you brought to our attention—one I was very familiar with, as Mr McCarty would know; the other one is Mr Ford—in both of these situations is it fair to say that the employer, the provincial government, in the view of your members, was negligent in meeting its responsibilities under the Occupational Health and Safety Act, and in one case probably the Environmental Protection Act?

Mr Ford: I would say that is very accurate, in fact probably intentional.

Mr Wildman: Just following up, in the case where you were suspended, in both cases where suspensions took place, did you have discussions with the Ministry of Labour inspector about the reprisals being taken against you for refusing to do what you considered to be unsafe work?

Mr McCarty: In my case, yes.

Mr Wildman: Nothing came of it?

Mr McCarty: Nothing came of it. In my case he just advised me that I was to take it up with my union. Basically I was on my own.

The Chair: Gentlemen, thank you very much for a very thorough presentation.

The last presentation of the afternoon is from CUPE. Ms Bonita Haight, we welcome you to the committee. I would ask you to introduce your colleagues, in case some of us do not know them, and we could proceed.

CANADIAN UNION OF PUBLIC EMPLOYEES

Ms Haight: This is Ron Moreau, my partner from the CUPE office here in Sault Ste Marie. I think you have met Linda Jolley, health and safety director with the Ontario Federation of Labour. I have asked that they come here for both moral support and technical support.

This is my first opportunity to participate in a forum of this type. I really want to thank you for providing this opportunity for concerned labour people to express their opinion and make recommendations for amendments to the Occupational Health and Safety Act.

Bill 70 became the Occupational Health and Safety Act over 10 years ago and it soon became obvious that the worker's right to know, right to participate and right to refuse were not being

fulfilled. The act just did not support this mandate, plus the lack of compliance by employers and lack of enforcement by the Ministry of Labour doomed the internal responsibility system from working since its conception.

There have been several task force reports and private members' bills introduced to amend the act since 1983, but they were ignored or defeated by the government. Finally, Bill 208 came out in January 1989 and it barely began to address the shortcomings of the existing legislation. What is even more disheartening is the fact that the Liberal government wants to whittle away anything of value in the bill, plus some of what is in the original legislation.

It is absolutely necessary for the sake of workers in every occupation and workplace in Ontario that we take this time to improve our legislation and we do not waste this opportunity to move towards making healthy and safe work environments a reality.

I am an occasional instructor for CUPE and I teach health and safety levels 1 and 2 and the workplace hazardous materials information system. Through my teaching experiences across northern Ontario, I have found certain problems common to many workplaces. One of the most prevalent and hardest to overcome is dealing with employers who have no understanding of the act and no desire to understand; it is the workers who want to understand. Workers are educating themselves and trying to apply the principles of the Occupational Health and Safety Act to make their workplaces healthier and safer. These workers do not want to be maimed or killed in accidents, nor do they want to develop a debilitating occupational illness, but too many employers believe the Master and Servant Act is still in effect and workers can still be regarded as property of the employer to work for the sake of profit at whatever the cost to the worker. This type of employer regards health and safety activists as a nuisance and uses intimidation to interfere with workers' attempts to improve their working conditions.

Not only from my teaching experiences have I learned this, but also from my own personal experience. My employer was exactly like that. I worked in a home for the aged that employs approximately 150 people, and that is just in the bargaining unit alone. Our health and safety problems can be complex and serious. I had returned from my instructor training and realized that before I could teach anyone how to improve his working environment I had to do some work in my own. Our joint health and safety committee

was originated by the employer and workers were only invited to sit in and listen to what management expected from them. There was no consultation and management always chaired the meetings. If a worker member spoke out against management's ideas or reports, he was openly chastised on the spot and was harassed on the job for days after.

Our guidelines for this committee had been written by a board of management with no health and safety training. These guidelines went so far as to change the mandate of the committee to assume responsibility for residents' health and safety. Very little concern or effort was placed on the workers' health and safety. The guidelines also contained disciplinary action against workers, which is completely contradictory to the act. At our health and safety meeting of August 1988 I raised several concerns about our committee's function and purpose, and I was constantly interrupted and criticized. I persevered and finished my report.

My only response for six months from management was verbal abuse and harassment. I waited and I took the abuse for that long so that I could prove to the Ministry of Labour that the internal responsibility system was not working. How could it when the employer did not even know what that concept means? I spent 15 hours documenting concerns with the Ministry of Labour, during which it was discovered that our ministry inspector had been neglecting his responsibility and fudging some of his reports. We were assigned a different inspector, and he came to my workplace to investigate the 13-page document addressing my concerns.

Instead of talking to all committee members and doing a thorough investigation, he tried to take a shortcut by facing me off against the administrator, and I spent seven and a half hours defending my concerns to both the inspector and the administrator. I was damned near ready to give up on trying to change the status quo. I called the area manager from the Ministry of Labour and asked why on earth was I interrogated like that and, if this was how the ministry handled investigations, no wonder workers were reluctant to hold their employers accountable for their actions or to call in an inspector.

The area manager advised me that if this was how the investigation was handled, then bring this inspector down. I decided that we have so few inspectors to begin with and I did not have time to keep trying new ones on to find one with principles and genuine concern for workers. The area manager also advised me that there was

enough evidence in the minutes from our health and safety meetings to charge the employer under section 24 for intimidation, but there was also an excellent chance of being fired if I did press charges, and I would either have to grieve it through my own collective agreement or appeal to the Ontario Labour Relations Board. I decided that the employers did not know the legislation up until now, so they did not even really know they were in violation of the act, and I regard that as disciplining a child for the very first time for being bad when he really did not know he was being bad. I really believed that the employer had to be given the opportunity to understand the act first. Given that a year down the road they were still being like this, then I would press charges.

The only thing I have been asking of my employers all this time was that they educate management people of what their responsibilities were, because they would not believe me when I tried to explain it. At this point in that workplace I was the only person who knew anything about the Occupational Health and Safety Act or how it was supposed to be applied. In place of the harassment charges against the employer, the Ministry of Labour decided to send a representative from the advisory services department to help us develop proper guidelines for the committee. The first thing this representative tried to do was get me to cancel Joe Divitt's visit. He is one of CUPE's health and safety experts. He also tried to get me to agree to guidelines that were more suited to management's ideology than to the workers'.

1440

We are into our second year with this struggle, and since then we have had a Ministry of Labour ergonomist and infection control doctor in our workplace. The ministry's inspector issued six orders against the employer. Our board of management then sent us a misinformed and misguided member to sit on our committee, who told us the next time I showed up on the premises with an inspector the administrator was going to call the police and throw us off the property. So far the ergonomist's report has not been initiated and the infection control policy is not in place. The orders were supposed to have been complied with by March 1989 and many are still outstanding and the advisory's guidelines have still not been agreed to by the employer. This means employees are still working in an unsafe and unhealthy environment after all their efforts to change it. I have stepped down from our joint health and safety committee.

Another experience I have had with employer perceptions about the health and safety of workers came from a WHMIS class I taught. This group was 150 ironworkers and welders who are contracted by large industrial employers like Algoma Steel, Stelco and Inco. As we were going over their rights, the workers started to laugh at me. They told me I was naïve and there was no way the big multinationals were going to comply with this legislation and there was no way the Ministry of Labour would ever stand up to big companies that broke the rules. Besides, their occupation placed them in such a transient situation they would never stay in one place long enough to effect any change. They told me that they were almost never issued protective equipment, and if they pushed for it they were always under the threat that they could be replaced by scab labour. They are already perceived as the workers who do not require the safety precautions that are provided for the regular workers at Algoma or Inco. When Chuck Frayn spoke this morning about the type of training that is already provided in that workplace, I knew exactly what he was talking about. Their own company people are well trained, but only because labour did that for them. Construction workers only benefit from that type of training because labour people originated it, not the companies.

These workers climb and crawl into places where the companies' workers refuse to go, and they do it without the assistance of safety nets or being lifted by cranes. I asked if they used safety hookups and again they laughed at me and they told me, "When you're 20 storeys up, what are you going to hook on to, a cloud?" To prove their point on employers' perceptions of their worth on the job, they told me horror story after horror story. A young man recently had both legs amputated at the thighs by a falling plate of steel that dropped from a crane. Before the ambulance had arrived, the superintendent was in his office calling the union hall for a replacement. A welder was plucked out of his safety belt by a piece of falling, spiralling chain, and he had barely hit the ground when someone was calling the hall for his replacement. A comment that his superintendent made was, "Get his tools off him before they haul him away."

The co-workers have been conditioned to accept that these types of accidents go with the territory and they continue to work as usual. So I took out a copy of the health and safety act and told them about their rights to have a representative on a job of 20 employees or more, and that if need be the Ministry of Labour would order a

representative for workplaces with less than 20 if the working conditions were really bad. I explained what the representative's rights were. I also told them that when Bill 208 passed they would have the right to a committee for 20 employees or more—and I really thought that was going to happen then—and the responsibility would not fall on one person to investigate, inspect and fight for their rights.

By the time our class was finished, these workers understood that they should be entitled to certain basic rights to improve their working environment, and they were encouraged by the fact that high risks, certain illness, injury or death does not have to be accepted as part of their job requirements. If Bill 208 does not guarantee committees for these people, then one person alone will have to struggle that much harder and it will take that much longer to change employers' perceptions about what health and safety should mean to construction workers.

The Tenth Annual Report of the Advisory Council on Occupational Health and Occupational Safety clearly shows the need to improve existing health and safety legislation, increase worker and employer awareness, the need for stronger enforcement and also more inspectors to be able to carry this mandate out. This report also demonstrates strong public support of these recommendations. The government cannot continue to ignore the statistics on increasing work-related fatalities, injuries and occupational illness. The Liberals' proposed amendments obviously address business's concerns at the expense of workers and against public opinion.

According to statistics provided by the Ministry of Labour, health and safety division, and the Workers' Compensation Board of Ontario, construction, industrial and health care workers have the highest rates of fatalities, occupational disease and injuries. It is ironic that for these occupations their health and safety rights have been so restrictive, whereas the business sector stats are much lower and within that sector managerial has the lowest stats. So of course business and employers are not worried about job health and safety. They do not feel they need it and they do not care if we do.

Therefore, we recommend that: All workplaces with 20 or more workers, regardless of occupation, will require a joint health and safety committee. Any workplace with less than 20 workers shall have a certified worker representative selected by the workers. Committees shall have co-chairpersons.

Workers and committees have been severely disadvantaged by oppressive employers, lack of knowledge for workers and employers, and compounded by ineffective Ministry of Labour inspectors. Therefore, all committee members should be educated.

The right to refuse work must be expanded to allow that no worker shall be asked to perform the refused work until an inspector has completed an investigation and declares the job safe and the legislation shall not be restricted to include "imminent danger" in our right to refuse.

The right to stop work should be given to a certified committee member or health and safety representative and remain stopped until a ministry inspector investigates. Wages should be guaranteed for all workers affected by a right to stop work. Workplaces should not be deemed "good" or "bad." Employers will be encouraged to cover up or disguise safety and health problems.

All workers in Ontario must be covered by this act. Farm workers, correctional officers, firefighters and police are exempt. Health care workers have restricted rights and have no health and safety regulations. They are forced to adopt industrial regulations.

There must be a bipartite agency that determines representation in all sectors. Compliance by employers must be enforced and reprisals against workers for exercising their rights under the act shall be prosecuted. The right to complete workplace inspections on a monthly basis must be guaranteed.

Representation on a joint committee should come from the workplace. Management or board members from outside the workplace will only impede the committee's ability to resolve concerns. Labour needs the opportunity to be in its own technical advisers to committee meetings. All complaints or incidents should be investigated by a certified worker member to prevent recurrence.

Every worker in Ontario should have the right to refuse unsafe work, regardless of his occupation, as an individual or as part of a group refusal. To ensure protection of workers from employer reprisals or intimidation, Ministry of Labour inspectors should be empowered to investigate reprisals and issue orders against employers who violate section 24 of the act.

To ensure compliance with the act and prosecution of employers who violate the act, the number of ministry and safety inspectors should be at least doubled. I really feel that it is unfair to blame the inspectors for being incompetent.

Because they are rushing on from one crisis to another, they are not given the opportunity to be able to concentrate on the issue at hand, because there is just too much of a workload for them.

Funding for all safety associations shall be equal. As was stated earlier, it is amazing the amount of work that the workers' centre has been able to accomplish on its limited budget in comparison to the other associations. All development and delivery of worker education and training should be directed through the workers' centre.

In conclusion, I appeal to this committee to fully consider the recommendations that have been presented here today. We have waited more than 10 years to improve our health and safety legislation, while all across Ontario workers are dead or dying. It is time to give merit to the status of occupational health and safety in this province and to remember that the pain and suffering of workers and their families has to stop. This legislation has to be built up and strengthened, not gutted and weakened.

It is hard for us to accept selfish and regressive laws from a self-serving oppressive government, but to be denied laws for something as basic and deserving as healthier, safer workplaces, proves to us what the government thinks of the majority of Ontario's population, the working class.

Mr Mackenzie: Sister Haight, I appreciate what is yet another very powerful presentation to the committee. I guess my only question to you is—you have made the case—will your union and the members of your union be monitoring not only what the individual members of this committee, but what the members of the House in its entirety, do and how they vote when this bill, making the case that you have, is before the House, and will it be passed on to your members?

1450

Ms Haight: Oh, it most certainly will. I would like to ask Linda Jolley to address that because I know that the Ontario Federation of Labour is organizing that sort of thing.

Ms Jolley: We, as you know, did lobby all of the members of the Legislature who would see us back in May, and we continue to lobby. We will certainly be making a record of the voting of all the members in the Legislature.

Mr Wildman: I understand the pressures of time. I just want to say that after hearing your presentation, there was no question that you did not need any backup. I am most concerned about what you have got to say about the Algoma district homes for the aged board, from your

experience. You were at Algoma Manor in Thessalon.

Ms Haight: Yes.

Mr Wildman: Are you aware of the situation? Is it any better or is it about the same at the F. J. Davey Home just down the road from you?

Ms Haight: Unfortunately it is much worse, because the members in that workplace have not received adequate health and safety training, and they have not even attempted to change the status quo.

Mr Wildman: I would certainly like to follow that up with you and your union subsequent to the meeting. Just in terms of the committee, the joint health and safety committee at the Algoma Manor, has there been any attempt on the part of management to gain some understanding, get some education, for its representatives as well as the employee representatives on the committee?

Ms Haight: Not in a direct sort of way. Again, we failed with our attempts, from labour's position, to try to develop proper WHMIS training in the workplace, and the employer opposed it all the way through, and not based on any sound reasons, only based on the fact that the union made recommendations as to how it should be handled. They were opposed to the union having any input, so the training was turned over to the supervisor of each department, who did not even know what the act represented. They were told that they were not allowed to speak to me. So in a discreet way and whenever they could, behind the scenes, they would come to me and ask me what they could do and what they should do. I ended up providing them with the materials that they needed so that they could do this, because the bottom line is the workers had to be trained and there was no point in me going toe-to-toe with the employer for months on end to decide how it should be done while they were not being trained.

Mr Wildman: So the departmental supervisors had to go behind the backs of their superiors, to you, to get the information because they were not getting it from management?

Ms Haight: That is right.

Mr Wildman: Finally, I really was interested in your discussion of your experiences in training construction workers in the Occupational Health and Safety Act. Are you aware that the Ministry of Labour, the government, has decided to restrict the number of inspectors that it is going to hire, so that rather than increase them the way you are proposing, we are actually going to see fewer inspectors in the workplaces at the same time that this legislation, the amendments before us, appear to be designed to restrict—

The Chair: This will have to be wrapped up immediately, because the bus is ready to leave. Could you reply briefly, please?

Mr Wildman: I was just going to say, at the same time the government is restricting the rights of certified workers, are you aware that they are restricting the number of inspectors?

Ms Haight: Yes, I am, and I realize that the health and safety inspectors are the front-line workers there with the legislation. Unless they do get the support and unless they increase their numbers, they are not going to be able to accomplish the mandate of this act.

Mr Wildman: I realize you are in a hurry to get to the plane, but I really do not know why you want to leave Sault Ste Marie so fast.

The Chair: We are worried about getting away from here at all. Ms Haight, thank you and your colleagues very much for your presentation. That concludes our hearings in Sault Ste Marie. We are adjourned until Monday 5 February at 10 am in Toronto. Thank you very much for your co-operation. We are adjourned.

The committee adjourned at 1454.

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Faught, Donna, President

Jolley, Linda, Director, Health and Safety, Ontario Federation of Labour

From the Sault Ste Marie Construction Association:

Thomas, Rick, Manager

From the Canadian Paperworkers Union:

Jourdin, Brad, President, Local 67

From the Sault Ste Marie Public Utilities Commission:

Ireland, C. E., General Manager and Secretary

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Collins, Donald G., Canadian Director and Vice-President

From the United Steelworkers of America:

Glibbery, Wayne, Health and Safety Chairman, Local 5417

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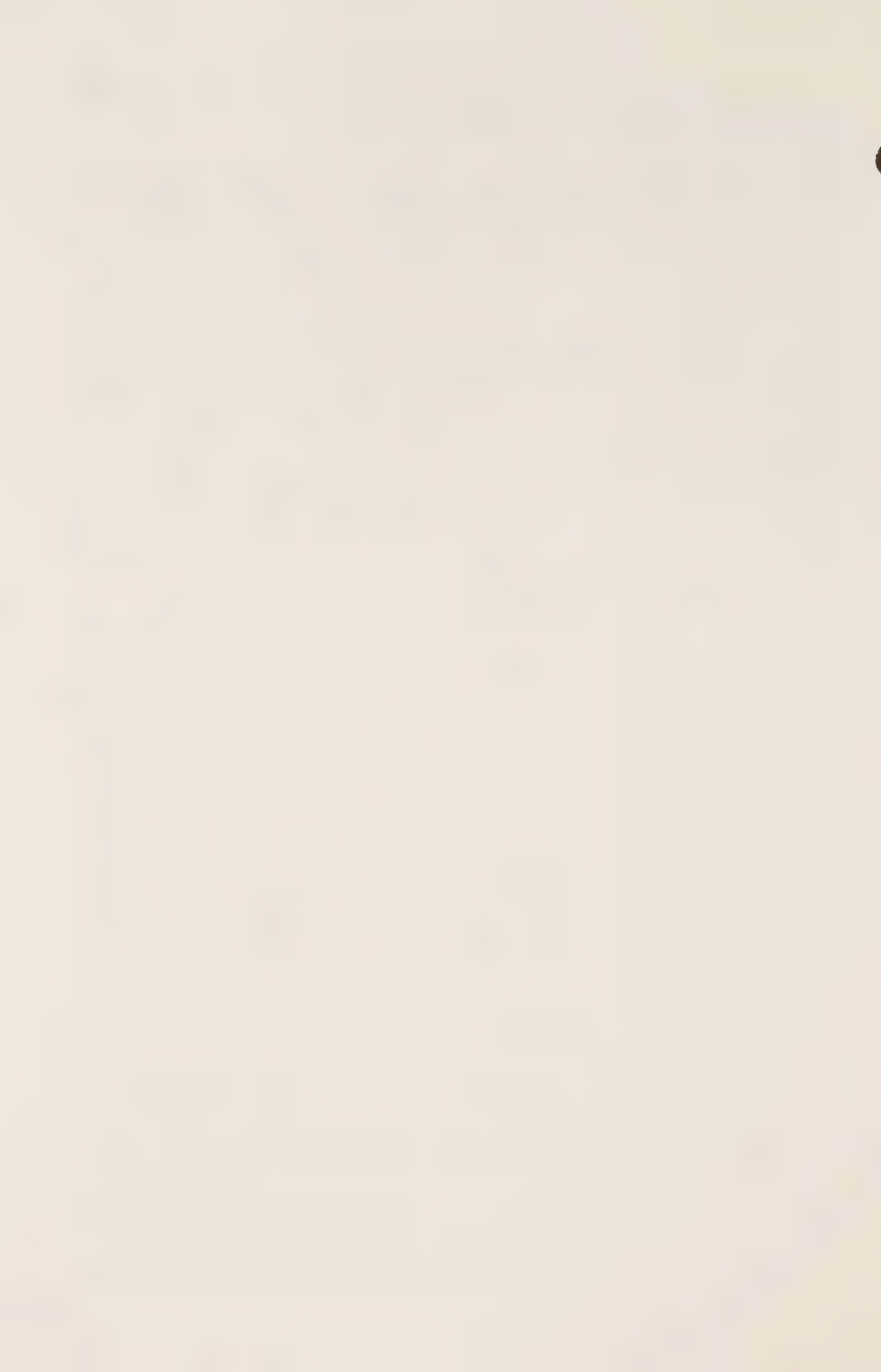
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Legislative Assembly of Ontario

Standing Committee on Resources Development

Occupational Health and Safety Statute Law Amendment Act, 1989

Second Session, 34th Parliament

Monday 5 February 1990

Speaker: Honourable Hugh A. Edighoffer
Clerk of the House: Claude L. DesRosiers



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday 5 February 1990

The committee met at 1014 in committee room 1.

OCCUPATIONAL HEALTH AND SAFETY STATUTE LAW AMENDMENT ACT, 1989 (continued)

Consideration of Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

The Chair: As we continue our examination of Bill 208, we have a full agenda today. I apologize for the delay. It is not normal to have so few members here at the beginning, but I cannot explain it. I am sure they will be drifting in very shortly. But I do think that we should proceed or we will get backed up during the day.

Our first presentation is from the auto parts manufacturers. Gentlemen, we welcome you here today. We are pleased that you are here. I think that Mr Van Houten is going to lead off the presentation and introduce his colleagues.

AUTOMOTIVE PARTS MANUFACTURERS' ASSOCIATION OF CANADA

Mr Van Houten: Thank you very much, Mr Chairman. It is certainly a pleasure for our association and our industry to be here this morning and to have the opportunity to make representations on Bill 208 which is a very important bill to your committee.

If I may, to begin, I would like to quickly introduce my colleagues. On my far left is John Montgomery from Excel Metalcraft, located in Aurora, Ontario. To my immediate left is Paul Aumuller from the Woodbridge Group, which is one of the largest parts-manufacturing companies in Canada. Excel is a medium-sized company. To my right is Jim Carter, who is the director of policy development at the APMA office. I am the president of the APMA.

I would like to quickly introduce our organization and our industry. The APMA is the national association in Canada of companies which manufacture parts systems, components equipment, services for the worldwide—and I stress worldwide—automotive industry. We have about 300 members. The parts industry in Canada is a \$14-billion industry: we ship products worth about \$14 billion per year. Most of that production is shipped to original equipment

customers rather than to the aftermarket and, in fact, almost all of it is shipped to Big Three car companies and the transplants that have now come to North America.

Our industry employs about 80,000 people directly, not including the various spinoff impacts. Most of our members would be small and medium-sized companies, rather like Excel Metalcraft. They would probably be Canadian owned, privately held, with one or two plants and employing fewer than 200 people.

Our industry is characterized, and this is very key, I think, by a heavy, heavy dependence on exports. About 80 per cent of our production is exported each year, almost all of that to the United States. In fact, there is no car built in Canada which has more than half Canadian parts, but similarly there is almost no car built anywhere in North America that does not have at least some Canadian componentry in it. So we are very heavily export oriented and this is important, I think, to our views about Bill 208 which I would like to explain.

Our industry is also undergoing very significant change and stress. Many of you, I am sure, are quite familiar and certainly aware of the layoff announcements, plant-closing announcements and the like in our industry. There are many forces at work in this process. There is overcapacity, softening demands, supply-base rationalization: that is a process whereby the vehicle companies are deliberately undergoing programs to reduce the number of parts manufacturers with which they deal directly.

There is market fragmentation, great price pressure; in fact, our prices are tending to go down by as much as 5 per cent per year. That is not in real terms, that is in absolute terms. If there is any inflation that is our problem, we are supposed to eat that. We are also undergoing great technological change in the drive for quality improvement in manufacturing-productivity improvements. All in all, it is a picture that can best be described as one of intense and increasingly intense competition.

Another feature of our industry which is very critical to understanding our views on Bill 208 is that we are moving more and more to a system of just-in-time manufacturing and delivery. That means that we do not have inventory anywhere in

the system. That means, for example, a company like Woodbridge will manufacture a seat set and deliver that seat set to a nearby assembly plant within a period of two hours of it being called for. That does not mean pull it out of inventory, that means make it and deliver it and have it installed in a car in a two-hour period.

This means, of course, that our customers, the Big Three in Canada but even more so in the United States where most of our production goes, are becoming more and more dependent on their outside suppliers, more and more vulnerable to their outside suppliers. They need reliable, assured delivery. If one of our companies fails to make a delivery, the assembly plant, which is its customer, goes out of production almost immediately. This makes the industry very lean and mean, and those kinds of good things that describe a high level of efficiency. It also means it is quite vulnerable to lack of reliability of supply.

1020

The fact is, as our brief which has been circulated to you indicates, that you can visually represent the structure of our industry perhaps as a spoked wheel, with each assembly plant to which we might deliver parts as the hub of the wheel and the spokes running out to suppliers both in Canada and the United States. Remember again, if you will, that for us most of the hubs are located in the United States; most of the spokes run to suppliers in the United States, a few run into Canada. Those few spokes running into Canada still represent a \$14-billion industry.

This means that if we cause a loss of production in an assembly plant because of disruption of supply, the hub goes out of production and all the other spokes associated with it. That means that our customers in the United States are very vulnerable indeed to any disruption in production in our plants in Canada. If we disrupt their production unnecessarily, of course, that can result in a substantial risk of loss of future business for us. When the car companies are going through a supply-base rationalization program, we know that they are looking for ways to get rid of suppliers that they do not need any more or feel that they do not need any more. We do not want to be the cause of excuses for them to decide to eliminate suppliers in Canada.

This brings us to Bill 208. In the interests of time, your time, I will try to be as succinct as possible. Suffice it to say at the outset that, in principle, of course we support the notion of joint responsibility for effective health and safety programs in the workplace and of course we

advocate responsible measures to improve the level of health and safety in Ontario workplaces. That does not mean that we favour everything we see in Bill 208; in fact there is a good deal we see in Bill 208 that we do not favour at all.

I would like to focus on a few of the specifics that are of key concern to us: to begin, the provisions relating to the right to refuse work. The notion that "work activities" might be refused for alleged health and safety concerns is of concern to us. We feel that there needs to be great clarification of what would constitute a sort of work activity that might be refused under Bill 208. I know the Minister of Labour, in reading Bill 208 the second time, addressed this issue by saying it would be clarified so that only "current or immediate dangers" could be the subject of this extended right to refuse. Still, this seems to us to require substantial further clarification. What constitutes a current or immediate danger is very difficult to understand up front. It requires to be much more specifically delineated.

The power to stop work is of course one of the most contentious areas of Bill 208 and it is the area which is of greatest concern to us. I do not need to belabour for you that Bill 208 would provide a system under which an individual member of a joint health and safety committee, if that member is a certified member of the committee, would have the power in certain circumstances to order that work in a plant be stopped. We think this is a very unhealthy innovation in the legislative environment in Ontario. I know there are strict, explicit criteria for the use of this power and I know there is a penalty for abuse of the power, but we do not feel those are sufficient at all.

It seems to us that in measuring the risk of this type of system, you need to consider both the probability of abuse, the probability of the risk taking place and the magnitude of the consequences if it does in fact take place. The probability of abuse may be low. We are not sure that it is all that low. We know of a number of instances where abuse of the right to refuse work does in fact occur in our industry and in our customers' industry.

The magnitude of the consequences, however, is the other element of the equation that needs to be considered. We think the magnitude of the consequences is so high that this power should not be granted, the power to stop work as prescribed in Bill 208. The magnitude of the consequences is a function of the nature and structure of our industry, as I said at the outset.

If I were Roger Smith or if I were Red Poling at Ford or if I were Lee Iacocca and several of my assembly plants or even one of my assembly plants in the United States went out of production because of a Bill 208 work stoppage in Ontario, I think I would allow that to occur once. I do not think I would allow it to occur a second time.

I used to work at General Motors of Canada. There was a strike at General Motors of Canada by the Canadian Auto Workers in 1984 for a period of time before the collective agreement was settled. At the height of that strike, there were more people in General Motors in the United States on layoff than there were on strike in General Motors of Canada in this country. That is another reflection of the fact that there is a high degree of dependence on exports and a high degree of rationalization in the structure of our industry.

We think the risks associated with granting a power to stop work unilaterally are too great to be countenanced. Frankly, we do not think the responsibility for ordering a work stoppage should be placed on one person and we certainly do not think that the threat of decertification constitutes a sufficient penalty or a sufficient deterrent to abuse of this power.

Again, I note that in the minister's remarks in reading the bill the second time, he set forth a couple of proposals. One was a proposal that where the internal responsibility system is working, whatever that means, decisions about work stoppages would be made jointly, whatever that means. He also suggested that amendments would be put to you, recommendations would be put to you in this committee, to the effect that where poor performers, poor health and safety performing companies, were involved, the power to stop work unilaterally might continue.

What is a poor performer? That is a question that needs to be clarified in very great detail. Without that clarification, or in fact in thinking about that kind of clarification, we have to ask the question, how does one decide if a company is a poor performer? What constitutes poor performance? What constitutes an internal responsibility system working effectively? Those are detailed questions, which need to have detailed answers.

We recommended in our brief, and we stand by that recommendation today, that a majority vote of the members of a joint health and safety committee be required before an order to stop work at the workplace could take place.

Another area of concern for us has to do with the proposed health and safety agency. We are

concerned both with its composition and with its powers. Briefly, the composition originally proposed for the agency would be 50 per cent management representation and 50 per cent worker representation, but with 100 per cent of that portion coming from organized labour.

The minister proposes that this be modified somewhat to include a full-time neutral chairman and the inclusion in the agency of some health and safety professionals. But his proposals do not change a problem that we continue to have, which is that 100 per cent of the worker representation comes from the ranks of organized labour. We think this is inappropriate, given the demographics of the workforce in Ontario. Two thirds of the workers in Ontario are not members of labour unions; one third are. We frankly do not see why it is necessary or desirable or preferable that one third of the workforce have 100 per cent of the worker seats at the Workplace Health and Safety Agency.

With regard to its powers, we made many specific comments in our brief and I will not review those in the interest of time. Suffice it to say that in the area of training, which is of course a key concern in industry—it is a key concern I know of the drafters of Bill 208 and it is a key concern of yours, I am sure—we feel it is important that the agency not have the power to deliver mandatory training programs itself. It does have that power as we read Bill 208.

We think that, with limited exceptions, the role of the agency should be restricted to the setting of standards and the design of curriculum rather than the delivery of programming. I think that the agency would not have the ability to deliver programming to hundreds of thousands of Ontario workers in many sectors. Neither do I think it is well placed to know what kinds of training those people in those sectors need.

1030

Finally, if I may, before my colleagues have any comments that they may have and we endeavour to answer any questions you may have, I would like to comment on the process that has taken place with regard to Bill 208. I do not think it is right. Bill 208 was read the first time a year ago in January. The Legislature subsequently prorogued. That should have meant that Bill 208 died and it should have meant that Bill 208, with a new number, should have been read again the first time in the new session of the Legislature. That did not take place. The first reading in the new Legislature was in fact considered to be second reading. I do not think that is correct process.

Frankly, I am also disappointed with the manner in which the Minister of Labour (Mr Phillips) has addressed the making of amendments to Bill 208. If he wanted to make amendments, I think the government should have fulfilled its responsibility, written out the amendments and published them, rather than hinting at what their effect might be in press releases and background documents.

It is a sufficiently important bill that we think we should be in a position to comment upon and criticize, if need be, actual legislative proposals rather than phrases in ministerial speeches. I cannot react very effectively or in a very detailed or helpful way to those phrases, not nearly as effectively as I could to actual legislative proposals.

I think that your committee might do well to continue these hearings or have another round of hearings after you receive the proposed amendments from the minister so that those who have made presentations to you so far can do so with the benefit of having read the actual proposals, the actual text of the bill. Thank you very much.

The Chair: Thank you, Mr Van Houten. Are you ready now for some questions from the members?

Mr Van Houten: Yes, please.

The Chair: We have about 15 minutes left. I have Mr Riddell, Mr Dietsch, Mr Wildman and Mr Mackenzie. Mr Riddell is first.

Mr Riddell: Regarding the one concern he had, Mr Chairman, maybe you could clear this up, but I do not believe the House did prorogue, did it? When the bill was introduced and then when we went back at the bill, I do not think the House prorogued.

The Chair: Well, it was introduced in January and we did prorogue after that and came in with a new session.

Mr Riddell: We recessed but I am not sure we prorogued, did we?

The Chair: I think there was a throne speech in the spring.

Mr Wildman: There was an agreement that a number of bills would continue.

Mr Riddell: Anyway, it is a small point. It was agreed that a number of bills would stay on the order paper.

The Chair: To be fair, it was not done arbitrarily by the government. There was an agreement among the House leaders that those bills would be carried over.

Mr Van Houten: That was my understanding. Frankly, it may be convenient for members of the Legislature, but I do not think it is in accord with parliamentary procedure. When a Legislature or when the Parliament of Canada prorogues, that should be the end of it. You see, Mr Riddell, it is significant in relation to this bill in that the second reading, or what is called the second reading by the Minister of Labour, was in some respects treated as though it were a first reading. That leaves us in the invidious position of making representations at the committee stage when we know that there will be further amendments and we have not seen them yet.

Mr Riddell: Well, that is part of the process too. Surely, you would not expect that the minister is going to load up this committee with a number of amendments that he is going to insist upon. Otherwise we are going through an exercise in futility. It is really this committee that will be making amendments after we receive all the input that we are receiving.

Mr Van Houten: Well, actually, what I would have hoped for would have been a first reading of a new bill with the amendments contained therein that represent the minister's current thinking, so that you, the members of the committee, and we, as witnesses before it, would be able to respond to what we know to be his thinking, what we know to be the text of the legislation that reflects his thinking. Right now, all we can respond to are comments in the press release that the minister made at the time he read the bill the second time. I think we could argue the point and belabour it for a long time without getting much further. I am sure there are other questions. I take your point and I hope you take mine.

Mr Riddell: I am sure there are, but you were the one who raised proper procedure. I just wanted to indicate that the process is that this committee listens to the input and this committee then sits and we make our recommendations.

Mr Van Houten: I understand that. I accept that. I also think, and I hope you will agree with me, that it is usual and proper procedure for bills to be introduced the first time after a throne speech.

Mr Riddell: All right. As I say, there was some kind of an agreement. I want to get to stop-work.

Mr Van Houten: Right.

Mr Riddell: I guess the reason that laws have to be made is because people tend to break the laws. We have heard input from companies that

say the internal responsibility system is working, but then we also hear where it is not working. We hear about the right to refuse work in some instances working well. In other instances, somebody refuses to work and the manager goes down the line and picks somebody else out and says, "Now, we would dearly love you to step into this and keep the operation going," and for one reason or another, that person will step into an area that the previous worker refused to work in because of some kind of hazardous situation.

Do you think we could somehow perfect the right to refuse work? In other words, could we insert in legislation the fact that management cannot get somebody to step into a work area that a previous worker has refused to work in until such time as a worker safety representative, a committee or something, examines that area and says, "Yes, this person had the right to refuse and nobody will go back into that place until the hazard is rectified"? What I am asking is, could we somehow perfect the internal responsibility system and the right to refuse that they have now without going to this other extreme and having somebody given the authority to stop work?

Mr Van Houten: I think that would be far preferable. In fact, that is much like the recommendation we made. We made the recommendation in response to the stop-work provisions in Bill 208 that it should not be an individual who can decide whether to stop work, but rather that it should be a majority vote, a majority decision, a consensus decision of the joint health and safety committee. I think that is pretty much in line with what you are suggesting.

The question of course in all of this is how quickly the decision can be made. If it can be made by a majority decision of people in the plant who are on the health and safety committee, that could probably be made in a timely fashion. Right now, if it were to call for a decision by an official of the Ministry of Labour, for us in our industry that would be completely unsatisfactory. We need decisions and action in minutes and hours, not hours and days. Right now, it would be hours and days.

Often we have the experience where we call for a ministry inspector to come to the plant to settle a situation or investigate it and he is at another plant someplace else, or he is on the road and cannot be reached. He calls you six hours later and he can come the next morning, by which time you have lost millions of dollars of shipments and in fact, as I explained earlier, in our industry your customer has lost millions of dollars of production, and it may turn out that it

was a false alarm. There is a risk of false alarms. They do take place for whatever reason.

For us the premium is very much on having a decision by a responsible group of people as quickly as possible.

Mr Riddell: Although I have other questions, I will relinquish the floor.

1040

Mr Wildman: I find myself in the unusual position of being in full agreement on one matter at least with my friend from Huron. I do believe we are involved in an exercise in futility.

I want to say, Mr Van Houten, that I agree with you on one matter as well at least, that it would have been far preferable for the minister to have put the amendments in writing so that everybody knows exactly what we are dealing with, rather than dealing with a bill as introduced by the previous minister with the knowledge that the government intends to amend it significantly. I think it does put you in a somewhat invidious position to be having to comment on a bill and really guessing at what the amendments might mean in making your presentation.

Mr Van Houten: Thank you.

Mr Wildman: I am wondering, though, what kind of consultation you had with the new minister, or with the previous minister for that matter, in regard to these amendments. What opportunity did you have to discuss with the minister or his staff the new amendments?

Mr Van Houten: I will describe our consultation process for you. We of course received with interest the original version of Bill 208 and immediately, through committees of our association and so on, developed the submission that has been circulated to you. It bears the date of May 1989, and that was reviewed in depth with senior officials at the Ministry of Labour.

In fact, we had an association workshop on the subject with the presence and participation of a senior official of the Ministry of Labour. So we felt that part of the process, after introduction of Bill 208, was satisfactory until we got to the next step which was the introduction of the amendments.

The amendments suggested in the press material that Mr Phillips released were not reviewed specifically with us prior to his releasing them. He knew what our concerns were, his staff knew what our concerns were. We talked about those with them at great length. We have also had the opportunity to visit with the New Democratic and the Progressive Conservative caucuses in relation to Bill 208.

So I do not think our consultation process has been unsatisfactory although again, with regard to the suggested amendments, the suggestions were not made to us in advance and of course, as I indicated, we do not yet know what the real amendments will be.

Mr Wildman: Mr Chairman, I would just like to give you notice and give the members of the committee notice that, in line with Mr Van Houten's suggestion, I will be moving a motion that we do hold hearings after we receive the amendments.

The Chair: It is good to know these things in advance. Thank you, Mr Wildman.

Mr Dietsch: I was intrigued by one of your comments. I believe you indicated the names of several leaders of different industries, Iacocca being one and some others. You indicated that you felt they would pull out. I want to clearly understand where you were coming from. You indicated that as a result of Bill 208, they would be looking at other manufacturing areas, or at least that is the way I understood the comment.

Mr Van Houten: Yes.

Mr Dietsch: There is nothing in Bill 208 other than the right to refuse and the stop-work provision that has been discussed by way of amendments in the bill. It would be a health and safety issue that would cause a shutdown in one of those places. It would be a dangerous work situation. Are you suggesting there would be other things that would take place?

Mr Van Houten: Sure, I am suggesting there could be other things take place. There could in fact be abuse of the power proposed in Bill 208. I know that Bill 208 sets out stringent-appearing criteria for exercise of the power to order a stoppage of work, but what happens if somebody signs a piece of paper that says: "Reasons exist for ordering a stoppage of work and I, a certified member of the committee, do so order. Signed," etc? The workplace shuts down immediately. It may be discovered later that the person who signed that piece of paper had done so for frivolous reasons.

Mr Dietsch: But what if it was not discovered? What if it went ahead? There have been many presentations before this committee that have indicated other views and workers being injured or, in some instances, some of the presenters have talked about workers being killed.

Mr Van Houten: What about those situations?

Mr Dietsch: Yes, exactly, what about them?

Mr Van Houten: I agree there should be legislation to guard against those situations. I think that the proposal of Bill 208 goes too far. I think that it would be an effective and satisfactory alternative, as Mr Riddell and I discussed a minute ago, to provide for work stoppages upon a majority decision of the health and safety committee rather than by individual members of it.

Again, there are two kinds of risks here: the risk of injury and the risk of loss of production for frivolous reasons. In each case, you need to measure the likelihood of the event occurring and you need to measure the consequences of it occurring. In both cases, both situations, both equations, there is significant potential damage to be done, to individuals and to continuation of production. I think that a better kind of a balance would be constructed on the kind of suggestion that Mr Riddell made.

Mr Dietsch: How many frivolous cases are you aware of?

Mr Van Houten: I do not work in a plant so my information is hearsay. I used to work, as I said earlier, for General Motors and I was aware of cases in some of its operations in Oshawa. A number like 28 seems to ring a bell in my mind; you would have to ask the folks from General Motors.

Mr Dietsch: There were 28 frivolous cases? Is that what you are saying?

Mr Van Houten: Yes.

Mr Dietsch: And over a period of what time?

Mr Van Houten: I cannot recall. Again, you would have to ask them. No doubt they have better and more current information than I. Perhaps Mr Montgomery or Mr Aumuller would like to comment.

Mr Montgomery: We have had three situations of work refusals, and I have been there eight years. In all three cases, the workers' rep on the health and safety committee decided or agreed with the management that there was not a safety issue involved. In two of those instances, we still had to have the Ministry of Labour come in to meet with the actual employee involved and explain to him that not only did we feel there was not a safety issue involved, but the members of the workers' health and safety committee agreed with us that there was not a safety issue involved and indeed the Ministry of Labour agreed. We even had a situation where the person refused to go back to work after the Ministry of Labour had suggested that he return to work.

You do have these situations and we keep speaking in the bill here about hazardous situations. Indeed, every issue that comes up is not a hazardous situation. It is what one believes or one wishes to believe. This is the situation we have had that we find and all of a sudden here we are. We are really concerned that we could have someone here who could shut the place down on the basis of a frivolous attitude or an incorrect assumption.

The Chair: I wish we had more time. We are over time.

Mr Dietsch: I am sorry. I just wanted to get clarification. Two such instances—

Mr Montgomery: Three instances, two when we had to have the Ministry of Labour in.

Mr Dietsch: Over a period of what time?

Mr Montgomery: That would be over the entire period I have been there, the full eight years.

Mr Dietsch: Eight years?

Mr Montgomery: Yes.

Mr Dietsch: Twice?

Mr Montgomery: We had no other stoppages before that.

The Chair: Mr Van Houten, on behalf of the committee, thank you and your colleagues for coming this morning. We appreciate it.

Mr Van Houten: Thank you very much for the opportunity to be here.

The Chair: The next presentation is from the Canadian Union of Public Employees and we have Jeff Rose, who is president, and his colleagues here. We welcome you to the committee. We have a copy of your brief before us. The next 30 minutes are yours. Make yourselves comfortable and proceed. I assume you will introduce those strange people with you.

1050

CANADIAN UNION OF PUBLIC EMPLOYEES

Mr Rose: I am Jeff Rose, the national president of the Canadian Union of Public Employees, and I am joined on my left by Michael Stokes who is the Ontario president of our union, and on my right by Colin Lambert who is our national director of health and safety, based in Ottawa.

We appreciate the opportunity to appear before you this morning and have prepared a submission which has been distributed to you, I trust. I am going to take a few minutes to draw attention to some of the major points that we

believe would benefit from being underscored, and then of course we would be happy to answer any questions you may have.

For the record, CUPE represents practically 150,000 workers in Ontario from among our 370,000 nation-wide. Our members reside in large and small communities throughout the province and their needs, both personal and social, I think are typical of those expressed by the citizens of this province, and by most Canadians in fact. Our members work for municipalities, hospitals, school boards, universities, homes for the aged, nursing homes, city health units, police departments, libraries, social service agencies and the like.

In its original form, Bill 208 represents the potential for real progress in health and safety legislation for Ontario. However, CUPE's support is contingent on amendments to correct significant weaknesses that exist in the bill; I encourage you to make reference to our brief for details. Nor do we support the Phillips round of amendments.

I would like to highlight three of our main concerns in the time that has been allotted for us this morning. First, CUPE members are being injured and even dying because regulations are not being enforced. Second, many employers are not doing a good job, certainly are not doing a good enough job of protecting workers in this province. Third, health care workers are not able to exercise fully the right to refuse dangerous work and they should be able to do so as they are able to do in most other jurisdictions of this country.

Let me expand on those three points.

First, it may sound shocking to say that our members are dying because regulations are not being enforced, but unfortunately it is the truth and we have been saying so for years. Rather than refer to some recent examples, let me take you back to one that was very public at the time. In 1984, in Thunder Bay, Peter Manduca was killed, crushed in the back of a garbage truck. Why? The coroner's jury found that he died because the truck he was working on did not meet provincial regulations. This was a civic employer. Instead of improving the policing of such regulations, the ministry suggested that the matter be handled through notices to employers to modify their trucks that did not meet the regulations.

That is not enough and we can demonstrate through photographs to show that to this day these regulations are being ignored by employers and the policing by the ministry is inadequate. In

1985, Frank Spurgeon was crushed by an asphalt truck that was reversing without a person to guide it and without an audible backup signal. The coroner's jury found that the truck was in contravention of Ontario regulations, and so it goes.

Our health and safety volunteer and full-time officers have repeatedly contacted Ministry of Labour inspectors to order compliance with regulations. We have met with ministry officials, produced photographs and other evidence to show how regulations are being ignored, but violations like that continue. Violations such as those that caused the deaths of Peter Manduca, Frank Spurgeon and others continue to this day.

Even in an area that has received as much recent attention as asbestos in the schools, there is clear evidence, including another recent death, preventable, unacceptable, of one of our members here in Toronto, that most school boards in the province are ignoring the law. What is worse, if the press reports are accurate, the province knows about it and still will not act.

According to the Toronto Star a report exists of a recent inspection of the schools in this Metropolitan Toronto area that shows, it would appear, that the vast majority of boards are not in compliance. Prosecutions should be initiated. We demand that report be released immediately so that it can be studied by lawmakers and by the public and so that unions such as ours can act on it.

There must be better policing of regulations to stop the injuries and deaths. Sadly, joint committees have been less than successful in bringing about real change at the workplace. The legislation, as I am sure you know, provides the joint committees with only limited powers and places the onus on employers to form committees, to ensure their operation and to educate and train committee members. The result has been, on the whole, that committees are treated as an inconvenience by employers.

Many employers do not want strong and effective committees. Assistance from the ministry's advisory group has unfortunately been required to establish committees in no fewer than 140 of the work sites we represent; that is, practically one quarter of our locals in this province have had to have recourse to the ministry to deal with recalcitrant employers on the question of workplace committees.

We recommend that Bill 208 be amended to strengthen the joint committee process, not to weaken it as the minister now wishes to do. We are in favour of joint committees, of course,

because CUPE strongly supports the concept of internal policing by both parties at the workplace, but this must also be accompanied by a strong enforcement process and full education and training for the participants. That is not the case now.

The 65,700 orders written by the Ministry of Labour inspectors in 1988 highlight the failure of many employers to properly police their work sites—65,700 violations. There must be a determined effort to make more employers realize that health and safety legislation is not motivated by some perverse desire to interfere in the workplace. Health and safety legislation exists because governments accept that they have a responsibility and a mandate to tell employers to protect workers, yet employers are often aware of violations but do not take proper steps to correct them.

That brings me to my second point. Employers in general are not doing a good enough job of protecting the health and safety of their employees. Yes, of course there are good employers, employers who carefully monitor and adhere to safe workplace practices, but there are too many who do not. That is why there must be stricter and more energetic enforcement of regulations.

Since the last major amendments to the Occupational Health and Safety Act in 1979, Ontario's fatality rate has not substantially decreased. Since 1979 more than 2,500 workers have died violently on the job. Many more have died from illness contracted at work. Lost-time claims have increased each year and are now more than 30 per cent higher than in 1979, and permanent disabilities have more than doubled. These are more than just statistics, of course. They represent taxpayer dollars spent on hospital and rehabilitation bills. They represent lost productivity for employers. They represent enormous pain and suffering of individuals and their families.

In our view the government has the ability to reduce these statistics. In the past employers have been allowed to control health and safety at the workplace on the grounds that they were responsible for the health and safety of their employees. Workers were assured that if given the guidance and the opportunity, employers would improve the situation and would self-regulate. They were allowed to maintain that control and the deaths and injuries have continued. The statistics we quoted earlier show that the employers as a group are not doing a good job of protecting workers. Too often, employers view health and safety legislation as an imposi-

tion, as an added cost, as an invasion of their workplaces.

The Canadian Federation of Independent Business, for example, has produced a brochure about Bill 208 entitled Ontario's Union Health and Intimidation Act. We are talking about the health and safety of workers; they call that intimidation. Headlines such as "A Horror Story in the Making" and wild claims such as "New Powers of Search and Seizure" exemplify this group's attitude towards health and safety improvements.

The way we look at it is this: Ministry of Labour inspectors issued 2,700 stop-work orders in 1988. We all know how conservatively they interpret the rules, but that is more than six times the incidence of workers refusing to do a dangerous job; only 427 times did workers risk the wrath of their employer to protect their own lives and their co-workers' in 1988. The sad truth is that if more had refused dangerous work, if more had utilized their right to refuse, fewer people would have been killed and injured on the job in this province.

1100

What is even more disturbing is that the Minister of Labour himself appears now to be bowing to employer pressure by introducing changes to Bill 208 that will weaken rather than strengthen it. I want to mention three examples.

The first is that the minister is proposing now a neutral chair for the Workplace Health and Safety Agency. We believe a neutral chair would shift the balance in the administration of the agency. We do not think there is such a thing as neutrality, frankly. Our experience in similar situations has shown us that a third-party chair often favours the employer group to the detriment of the worker group, and consequently workers' interests suffer.

CUPE advocates, as does the Ontario Federation of Labour, two co-chairs, one representing labour and one representing employers. We are confident that the two parties involved in the workplace will be able to work out difficulties together. If consensus cannot be reached on particular issues, provision could be made for a mediation process.

A second example: the minister is proposing to limit the right to refuse by restricting the type of work that can be refused, while in its original form Bill 208 adds the category of "activity" to the criteria for refusing. Now, the minister's proposal will mean that situations involving repetitive strain injuries and poor workplace design will not be subject to the right to refuse.

As you probably know, repetitive strain injuries can eventually become permanent disabilities if left unaddressed. Now, workers can and do apply the right to refuse in such situations and that right has been upheld by the Minister of Labour; that is the present situation. As well, the Workers' Compensation Board in Ontario has slowly but steadily recognized repetitive strain injury claims.

This would now be reversed. Surely health and safety legislation should not turn back the clock in this province. Instead of limiting the right to refuse, the minister should be encouraging increased recognition and protection against escalating forms of workplace injury such as repetitive strain injuries.

It might be understandable for the minister to consider restrictions on the right to refuse if workers had abused it, but as the statistics I gave a few minutes ago illustrate, this is not the case. Employers seem to have an overzealous fear of worker abuse of the right to refuse unsafe work; it is unsubstantiated by the facts.

The employers' forecasts made at the time of the last round of amendments in 1979 were of massive work stoppages. These have not materialized. In 1988, as I said, there were only 427 refusals reported by the ministry. The ministry itself shut down work more than six times as frequently. The statistics prove that workers do not abuse the right to refuse and are in fact extremely cautious in applying that right.

There are several reasons. After a certain point, co-workers affected by the application of the right to refuse are not paid. That creates strong peer pressure on workers. Workers who refuse unsafe work may fear retaliation for employers. The act does not provide for protection from such action even when the refusal is substantiated by an arbitrator or a labour relations officer. The act also now allows employers to assign other workers to work that has been refused. Often the person assigned has less seniority or is on probation and therefore may justifiably fear reprisals for refusing to take the assignment.

All of these are strong reasons for workers to be extremely judicious about applying the right to refuse. In fact, far too often already these reasons intimidate workers from refusing dangerous work that may result in injury or death. Had there been more refusals last year, I repeat, there would have been fewer deaths and injuries in the workplaces of Ontario.

Back to the third example: the minister is proposing to link the certified member's right to

stop work to whether the employer is categorized as a good or a bad employer, suggesting that employers should be divided into good guys and bad guys. If the employer is categorized as a good employer, that employer's certified person can veto the decision to shut down an operation by a union's certified person.

Surely the decision to apply the stop-work provision should be determined by the fact that a danger exists, not by a predetermined designation. Workers and their representatives must be able to take action in a dangerous situation regardless of whether their employer has been designated a good guy or a bad guy by the ministry. Allowing an arbitrary designation to overrule a special situation is both shortsighted and potentially very dangerous.

The minister should resist capitulating to employer pressure on this issue. Employers' exaggerated fears of the right to refuse must be balanced against the injuries and deaths that will result from dangerous situations being allowed to continue, and clearly that latter consideration should have priority.

When one talks about dangerous work situations, one usually thinks of construction sites or factories. Hospitals and other health care institutions can be dangerous places to work too. Health care workers often do heavy lifting and work with toxic chemicals and contaminated substances such as blood, dressings and the like.

That brings me to my final highlight, that existing legislation denies health care workers the right to refuse unsafe work if that refusal is said to affect the health and safety of others. In practice this means that health care workers are effectively denied the right to refuse dangerous work.

No other province singles out health care workers in this way. Why should Ontario? There are no documented examples from jurisdictions where health care workers have an effective right to refuse to show that patient safety has been jeopardized. Health care workers represent a large proportion of the workforce in Ontario, yet they are among the most unprotected workers in the province. Not only are health care workers denied the full right to refuse, but they are not governed by a set of meaningful safety regulations either.

Why is this so? Because the government did not accept the recommendations of the committee that spent years reaching consensus on mutually acceptable regulations. Why did that happen? Because the Ontario Hospital Association refused to accept the agreement that it had

participated in drawing up despite the fact that its representatives were part of the committee.

The result now is that health care workers in Ontario continue to lack adequate health and safety protection. This situation must not be allowed to continue. We urge this committee to recommend amendments to Bill 208 to include all public workers in the right-to-refuse section. Such a recommendation would go a long way towards much needed protection for those who work to protect the public's health.

In conclusion, the government of Ontario deserves credit for introducing the original Bill 208. With the amendments suggested by CUPE and the Ontario Federation of Labour, it would have the potential to be the best health and safety legislation in the country. Unfortunately, if it remains unchanged, Bill 208 will not live up to the legitimate expectations of workers in Ontario. If the Phillips round of amendments are adopted, it will fall even farther short. The government will not have fulfilled its responsibility to protect workers from injury, illness and death.

Peter Manduca, Frank Spurgeon and many others cannot be here to tell you their story, so today I must speak on their behalf. Their deaths and the deaths and injuries of other Ontario workers—one death and 1,800 injuries every single working day in this province—cannot go unheeded. Thank you.

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The Chair: Several members have indicated an interest.

Mr Mackenzie: As you pointed out, there were 65,711 orders issued in 1988. I do not suppose you know offhand how many of those orders were carried out or acted on, do you?

Mr Rose: I do not. Maybe my advisers do.

Mr Lambert: No.

Mr Mackenzie: The facts are that a substantial number of them are not. The reason for the walkouts at McDonnell Douglas, as just one of many examples, is because there were better than 600 orders that were not complied with. So we not only have orders issued but we have a situation of orders not being complied with. I am glad you pointed out the predicted mass of refusals when we were discussing this bill back in 1979, because they did not take place. But neither have we had the enforcement. Do you see the internal responsibility system not working as one of the main drives behind the need for this kind of legislation?

Mr Rose: Absolutely. The internal responsibility system in principle of course is an entirely laudable concept, but there does have to be an assurance of monitoring, of policing and of the interests of society in the workplace, through the mechanism of government, to make that work properly. It may very well be that my colleagues would wish to add something to that.

Mr Lambert: I think the examples we have given of the Manduca and Spurgeon cases point out the failure of the internal responsibility system. There were recommendations out of coroners' juries in those cases that refused to put any blame on the ministry but suggested that the ministry should be more energetic in getting employers to comply.

One of the ways the ministry said it would do that is through the internal responsibility system. It sent out notices to every employer in the province who had garbage trucks and every municipality which was responsible for asphalt laying. We, at the same time, sent out notices to joint health and safety committee people, and the majority of those committees raised the issues in their committees.

Yet to this day you can go out on the streets of Toronto or any other city and find trucks that still have unguarded pinch points where heads and limbs can be crushed, because those trucks have not been modified. You can go out and see asphalt laying—not this time of year, but certainly as soon as the asphalt starts being laid again—and almost invariably, see trucks being backed up with nobody backing them up, which is a violation of the regulation.

Internal responsibility, even in the case of those deaths, has failed to address this. It is the weakness of the internal responsibility system that is to blame for that.

Mr Mackenzie: Do you see the agency approach and the dual certified worker reps as a possibility of leading to something that I think most people have argued for for a long, long time, and that is a partnership that does away with some of the confrontation on labour issues? Is that a route that we might be going? We seem to have others who argue we should just be enforcing better the current legislation we have, which obviously has not worked when you take a look at the figures.

Mr Rose: Enforcement, of course, is vital, but the changes of which you speak are equally vital. Let me give you another example of the failure of the internal responsibility system. It has been in the media in the last few days and it has to do with asbestos. I assume everyone has read the articles.

Imagine what would have been the case, instead of the death that we regret and the possibility of others—and there are now investigations going on in a number of schools and school boards, and this will of course grow in Ontario as people realize that there are probably hundreds of institutions in this province where a thorough investigation will now have to be done and action will have to be taken to protect the staff and the kids from breathing in that poisonous material. But imagine what would have happened if there had been certified worker reps working virtually full-time, highly trained, in the school boards in the Metropolitan Toronto area here. I dare say that that would not have happened, because it would have been their job to prevent that.

Furthermore, imagine what would have happened if the policing had been adequate, if the ministry inspectors had followed up their findings of the early 1980s by controlling the situation of asbestos in the schools instead of discovering that it existed as a problem and then backing off over the ensuing decade. Imagine what would have happened if people had been properly trained to recognize the danger, to deal with the danger, and then of course to address it through encapsulation or whatever else would have been necessary.

There is a perfect example in a nutshell of the failure of the present system in Ontario, and a preventable death is mourned by CUPE and by the whole community, I hope, today.

The Chair: I wish we had more time. We do not. I will give Mr Fleet a chance to ask a question.

Mr Fleet: I found your presentation, and the written presentation as well, to be very comprehensive and very persuasive in a number of areas.

There is one point—and I am looking at the written presentation—that deals with repetitive strain injuries. In reference to the proposal by the Minister of Labour in that area, you state that this proposal takes away rights presently enjoyed. This has been a point that has come up with other presentations, and I am frankly having some difficulty understanding how that might be.

The existing act provides that a worker can refuse to do work where he has reason to believe the equipment is likely to endanger him or another worker, the physical condition of the workplace is likely to endanger him or the equipment or the condition is in contravention of the act or regulations and is likely to endanger him or another worker.

We have heard from you and from others that increasingly there are repetitive strain injuries that are being recognized by the Workers' Compensation Board under one of those three existing provisions. Then in Bill 208 we have the addition of the work activity provision and the qualification, which would be applicable if the minister's proposal were adopted by the committee, that instead of it being a work activity which would endanger the worker or another worker, it would be to immediately endanger the worker.

I share your concern about having a new provision that might take away from existing rights. I do not believe that is the intention of the proposals at any stage coming from the government, nor would it be anything I would endorse. As I understand the way in which this is constructed, all the provisions that exist currently, which allow for at least some repetitive strain injuries to be recognized, would continue to exist unimpeded and unaffected by the new provision, whether or not the word "immediately" has been put into the new provision, because it is an add-on. It does not take away and it does not modify existing provisions, as I understand the construction of the act and the various amendments proposed.

If you have a different understanding or if there is some different concern, I would be very interested in hearing about that.

Mr Rose: I am going to invite my expert colleague, Mr Lambert, to answer.

Mr Lambert: I am glad to hear your interpretation, but in fact it has been our information that the minister claims his interpretation of activity will be restricted to such things as heavy lifting only. In that case, you do put a restriction by putting a definition into the act, if that is accepted. Our concern in that area is that placing the activity as described as just heavy lifting means you therefore are saying that it does not mean repetitive strain injuries.

Mr Fleet: So you are saying it would depend on the way in which the proposal was put forward, the exact wording. Do I understand correctly?

Mr Lambert: Yes. If the activity is to be defined as just heavy lifting, then it will restrict other activities.

The Chair: I think we are going to have to end the interesting—

Mr Fleet: I would like to ask some more questions, but—

The Chair: I know. We all would but we really are out of time. We did agree, as a

committee, that we would take 30 minutes for each presentation. Mr Rose, thank you and your colleagues very much.

Mr Mackenzie: Just before we proceed with the next, there was reference made to a report on asbestos in the schools here in Metro Toronto. I am wondering if it would be in order that we request that a copy of that report be filed with this committee.

The Chair: That can be done, I am sure.

Ms Luski: I will try.

The Chair: Okay, we will try to do that, Mr Mackenzie.

The next presentation for the morning is from the Industrial Accident Prevention Association of Ontario. We have with us somebody who is no stranger to these halls, Russ Ramsay. Mr Ramsay, we welcome you back here. If you would introduce your colleagues, we can proceed.

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INDUSTRIAL ACCIDENT PREVENTION ASSOCIATION

Mr Ramsay: It is a pleasure to be back here, and I am looking forward to the occasion with just one measure of regret. The person who was to make the presentation this morning, our volunteer president, Don Moore, the vice-president of regional operations for Union Gas in Chatham, has been hospitalized with heart problems and is at home recuperating. I will read his presentation to you today. He very much wanted to be here and he sends his regrets.

On my left, on your right, is Don Pedley, the executive director for provincial services for the Industrial Accident Prevention Association. On my immediate right is Ray Pleasance. Ray is our volunteer second vice-president and the district manager of southwestern Ontario for Levitt Safety Ltd.

On my far right is an individual who I believe has been before your committee on numerous occasions when he worked for Noranda mines. We are very pleased to advise that for the past number of months he has been with the IAPA as our executive director of research and development. He is well known in the occupational health and safety field as well as in training and compensation and other aspects. His name, of course, is Jim Pirie. For Mr Wildman's benefit and for your benefit, Mr Chairman, he is also from northern Ontario. I thought I would make that distinction.

The Chair: We could tell just by looking at him.

Mr Ramsay: As I am sure you are aware, the Industrial Accident Prevention Association is a provincial nonprofit safety and health organization. Our members number over 65,000 retail and manufacturing firms in the province who have automatic membership in the association, funded through member assessments levied by the Workers' Compensation Board.

Actually we are a federation of 10 industry-specific organizations called class associations that represent diverse industrial sectors. IAPA services are developed considering each association and the needs of the funding members. In this way we are an umbrella organization for the following accident prevention associations: woodworkers; ceramics and stone; metal trades; chemical industries; grains, feed and fertilizer; food products; leather, rubber and tanners; textile and allied industries; printing trades, and Ontario retail.

The IAPA was established in 1917. Our mission is to contribute to the continuous improvement of workplace health and safety by providing high-quality, client-focused educational programs, products and services. We believe the best way to meet that challenge is by forging alliances with all levels of industry, labour and government, and that will be the theme of our presentation today.

In the 72 years of our history, working with all sectors of manufacturing, industry and commerce, we have acquired a large fund of knowledge regarding multiple causes of accidents, and through the development of first-class products, programs and services have been able to assist the members who avail themselves of our services to consistently improve their prevention programs. It is in the hope that this 72 years of accumulated knowledge of what makes for safe and healthy workplaces may be put to a wider use through a revised and more effective Occupational Health and Safety Act that we appear before your committee today.

The description that I have provided to you would indicate that we are not a lobby group and thus we cannot sit here today and pretend that we represent a consensus of the opinions in respect to Bill 208 by our 65,000 client firms and their workers, although we can safely indicate to you that there is a wide divergence of opinion on Bill 208 among our client firms and their workers. Many of those divergent views you will hear in other presentations from trade associations and trade unions.

I can speak, however, on behalf of the volunteer officers of the IAPA, who in turn are elected from a broad base of some 2,300 active volunteers across this province. We can also speak for the senior staff officials of the IAPA.

Perhaps a brief word at this time would be appropriate in respect to our volunteer base. Earlier we told you about our class associations. Each of those associations has its own elected executive. Meanwhile, there are 42 geographical divisions and sections across the province, each with its own executive and volunteers. Each class and division, on a weighted basis, sends democratically elected representatives to our 75-person board of representatives.

There are up to 25 representatives from the classes, up to 25 from the divisions and 25 at large who represent other safety associations, government, out-of-province safety-related organizations, academia, recognized occupational health and safety practitioners, labour, etc. I will get back to labour in just a few moments. The 75-person board provides advice, counsel, representation province-wide and in turn elects 25 of its members to form a board of management. The board of management appoints seven officers such as president, vice-president, etc.

The IAPA has observed a dramatic change in the attention being given to occupational health and safety in this past decade. In the early 1980s, there was somewhat of a feeling of apathy, fuelled in part by the recession that the province and the country were going through. That apathy still exists in some aspects, but has been completely overshadowed by a total new awareness, which makes it much easier for the safety associations to conduct their mandated responsibilities.

There are a number of reasons for that change of which you are all aware, such as escalating compensation costs, a determination by governments to improve safety performance, spurred on by aggressive opposition parties that have adopted occupational health and safety as a priority issue. At one time there were solitary voices such as Elie Martel of the New Democratic Party caucus, a true champion in the cause of occupational health and safety for over 20 years, with great determination and dedication. Now there are many voices, including Elie's daughter, who are picking up the challenges that he established.

Meanwhile, labour has adopted occupational health and safety as a very legitimate issue and now it is front and centre on most union agendas. The introduction of WHMIS legislation both

federally and provincially very much brought occupational health and safety to the forefront in the workplace these past two years, and enlightened management has come to realize that health and safety is as important today as quality control and productivity.

The passing of amendments to the Workers' Compensation Act in Bill 162 has brought new awareness of occupational health and safety to both management and to workers. Meanwhile, the media has adopted occupational health and safety as a newsworthy and legitimate issue. Finally, the introduction of Bill 208 has created a clear signal that the provincial government is determined to continue its pressure on one of the most serious problems in society today.

The safety associations and other delivery agencies across the country have gone through a period of self-assessment and external examination and have become much more innovative in their approaches to occupational health and safety. They are now primarily taking a focused approach to the problems rather than what at times was considered a shotgun approach, and most importantly, can report a much higher level of proven successes, as can be shown in appendix A, the selected firms chart.

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To meet the new challenges of occupational health and safety, the Industrial Accident Prevention Association has been completely restructured, both internally and corporately. We are not here to tell you about those changes, but to assure you that we are treating Bill 208 as an exciting challenge and opportunity rather than any sort of imposition. We feel that the new workplace agency will require many of the services the IAPA is already providing, as well as the services we expect to have available within the next two years.

On 11 April 1989, I made my first address as president of this association—bear in mind that I am reading the remarks of Don Moore, our volunteer president. It was to an audience of several hundred at our annual conference. Let me read a few excerpts from that address concerning Bill 208.

"When it is passed, with or without modifications, it will launch a new era for Ontario—a challenging era of immense proportions as we creatively reach new milestones of worker-management co-operation in the workplace in this important area of preventing occupational injury and illness.

"Bill 208 is viewed by the government and the minister as an attempt to further, not restrict, the

safety associations. The government's role is to provide tools and a framework, and to monitor the parties that implement it.

"The bill supports the principle that safer and healthier workplaces will be the ultimate result of properly managed workplaces—workplaces in which management and workers share a common goal. And Bill 208 gives more particular responsibilities to those workplace partners.

"Your association agrees with this principle, recognizing that safety cannot be separated from other management responsibilities and that workplace harmony and co-operation are necessary ingredients to achieve overall excellence of results.

"Bill 208 supports the prevention of accidents through education and training. An informed, educated management team working with an informed and educated workforce will provide the most solid roots for a safer, healthier, more productive workplace. We at the IAPA believed and supported that for almost three quarters of a century. Many of our member firms believed that, and have the records and bottom-line results to show for it.

"Industry needs a strong consulting organization made up of staff and volunteers dedicated to self-help and mutual support. Bill 208 needs to acknowledge and support that.

"Bill 208 is causing no small amount of controversy. In a democracy, we are free to respond to legislative change. The legislative process not only invites, but also requires, constant criticism and listening in good faith. Industry and labour response is to be expected. If this takes place in a constructive fashion, the result can be good, workable legislation that will further improve safety and health in Ontario.

"A strong, competitive Ontario in an increasingly competitive world needs teamwork and creativity, not antipathy and acrimony. Working together to balance competing interests is not only tough, but also necessary. Ultimately, when the rhetoric ends, we all need to come away with a positive supportive sense about Bill 208."

That is the end of the quote of the remarks made by our president to our annual conference in April of last year—topical then; very topical today.

Committee members, these comments are even more appropriate actually today than they were nine months ago and they fairly represent our approach to this piece of legislation. Already the attention of the industrial population has been drawn to the needs of reducing the toll of industrial accidents and illnesses in the province.

Now, in formulating revisions to the Occupational Health and Safety Act, it is in our opinion necessary to make a move towards legislating those measures that are known to most influence prevention.

First, experience has taught us that to permanently effect a solution to accident prevention, the causes must be addressed and eliminated. Underlying causes, in all cases, originate in the lack of adequate safety and health standards or in the adequate control and enforcement of those standards.

We believe that the Occupational Health and Safety Act should include provisions ensuring that standards are in place and under control, and that the bill contain a clause requiring organizations to have certified their safety and health control systems.

To ensure adequate standards we recommend a self-applied audit program be introduced. This would identify priority needs areas to be addressed and direct such training programs and educational materials that the safety associations would develop. The result of the proper management of health and safety, as in any other facet of business, by adequate controls and standards will undoubtedly result in the empowerment of the workers.

In keeping with our comments about the new environment for occupational health and safety, we see the emergence of Bill 208 as a further opportunity for a closer partnership between the existing delivery agencies, such as occurred with the development of the workplace hazardous materials information system educational and training materials.

In the past you would have seen a number of the safety associations developing their own material, the Ministry of Labour likewise, the Workers' Health and Safety Centre likewise, and other groups getting into the scene as well. This time a coalition was formed consisting of the Ministry of Labour, the workers' centre and the Industrial Accident Prevention Association, representing the safety associations of Ontario, and the Occupational Health and Safety Educational Authority, representing the Workers' Compensation Board and providing a co-ordinating role.

The net result was a generic approach to WHMIS training and the development of supportive WHMIS material. It was a first in occupational health and safety in this province. That co-operation continues in order to develop and provide WHMIS training in four of our third languages, with the assistance of a grant from the Ministry of Citizenship.

Meanwhile, the safety association, with the workers' centre representing labour, have already resolved to work co-operatively in developing a core training program applicable to Bill 208.

In fact, let me read that resolution which was passed unanimously by the safety association managers and by the workers' centre on 27 February 1989, "Whereas the general managers of Ontario safety associations and the Workers' Health and Safety Centre are agreed that the amendments to the Occupational Health and Safety Act (Bill 208) be approached in a positive and proactive manner, it is resolved that OHSEA be urged to play a leadership role, similar to its participation in WHMIS training, in forming and co-ordinating a coalition of the safety associations, the Workers' Health and Safety Centre, and the Ministry of Labour to establish a generic core training program that would be adaptable to meeting criteria to be developed by the Workplace Health and Safety Agency in training members of joint health and safety committees," end of the resolution.

Bill 208 presents some very interesting challenges in terms of meeting the needs of and being able to deliver what is required to small businesses. Approximately 45,000 of our member firms may be considered small business in that they are six employees or less, and thus we are very familiar with the challenges of working with this sector to identify needs and implement solutions. The skills and knowledge required in the workplace to make this legislative thrust successful will require stronger alliances between the IAPA and such groups as the trade associations, the Canadian Manufacturers' Association and the Canadian Federation of Independent Business, to name just a few organizations with a common concern for small business.

Other recommendations we would like to offer with regard to amendments to the current act are:

It is not enough to only certify joint health and safety committee members. We need also to consider certification for others who are significant contributors to injury and illness prevention; that is, safety staffs, worker representatives, supervisors, etc. These members of industry, together with competent persons as required by the Occupational Health and Safety Act, currently receive much of their basic health and safety training from the safety associations, and we are prepared to actively participate in a leadership way in the tripartite process to develop the most appropriate resources.

Funding for the agency should be clearly separated from WCB assessments, thus focusing the efforts upon prevention before the accident, in contrast to compensation of the injured.

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The IAPA has extended an invitation to its sister safety associations and to the Canadian Centre for Occupational Health and Safety, and will extend additional invitations to other occupational health and safety related agencies to jointly sponsor the annual IAPA conference in 1992 and thereafter. The IAPA identification would be dropped and the result would be a safety conference that is not related to retail and industry alone, but related to all aspects of safety and health education in the workplaces of Ontario.

A pilot project in this respect was conducted in Thunder Bay where the annual Forum North sponsored by the IAPA became Forum North sponsored by the safety associations of Ontario. It was a huge success story and, hopefully, that success will be emulated in other regional conferences around the province and, eventually, the annual Toronto conference. This year's conference will see involvement and for the first time ownership in part by the Canadian Centre for Occupational Health and Safety, as well as a major presentation by the Mines Accident Prevention Association of Ontario.

Other exciting examples of alliances include a new liaison and reciprocal arrangements with the National Safety Council of the United States, secondments of IAPA staff to the Ministry of Labour, organized labour-management initiatives within our class associations, planned joint endeavours with the Canadian Centre for Occupational Health and Safety, and joint accreditation training with sister safety associations. There are many other examples, but suffice it to say that the possibilities are unlimited and must be explored and initiated in the best interests of occupational health and safety.

Having said all this, we must point out most emphatically that we agree with statements by various officials from the Ministry of Labour and the immediate past and present ministers that there should be no attempt to desectorize the safety associations. We say that knowing full well that the IAPA would probably benefit most should the safety associations become desectorized, not only from the aspect of empire-building, if you wish, but because of our size we have many sophisticated services that the other safety associations do not, or cannot enjoy.

Despite those parochial attractions, we feel it would be a tragedy to lump the safety associations together. There are very unique challenges in the construction industry. There are very unique challenges in transportation, in mining, in pulp and paper, in farming, in health care and all of the other aspects of our workforce that is represented in one way or another by a safety association. Going back to the focused approach that I was talking about earlier and that has been so successful, we must maintain that type of approach. To be all things to all people, which at one time might have been acceptable, is no longer so.

I referred earlier to labour. Let me state most emphatically that the IAPA strongly supports the aspects of worker involvement on its boards. In fact, we were actively seeking worker representation from organized labour at the time Bill 208 was originally introduced. We felt that we were making good progress and wanted to work this out with respect to our new corporate structure. That progress came to a halt when Bill 208 was introduced, in that organized labour understandably began to ask themselves, "Why should labour have less representation on the safety associations when Bill 208 is designed to provide 50 per cent representation?"

While we are totally supportive and have attempted to work towards worker representation, we must make it abundantly clear that worker representation should consist of both organized and unorganized. Sixty-six per cent of the workforce is unorganized in Ontario and we must have representation from that sector as well as from organized.

Interestingly enough, the major number of our 23,000 volunteers, many of whom are executive members of the geographical divisions or members of the board of directors of the class associations or members of our corporate board were, or are still, members of the workforce. Most would be considered nonmanagement in establishments, both organized and unorganized. But that is not good enough any more, and we must start to fill our various boards with clear delineations of representation. Bill 208 will make it much easier for us to do just that.

What can the IAPA bring to the proposed workplace agency?

1. It can bring an absolute wealth of occupational health and safety experience and a dedicated staff, where some 180 out of 230 are in direct contact with our clients. A stepped-up level of training and certification for our people occurred in the last short period of time and will

continue to escalate. Among these 230 people are many specialists who are constantly being consulted by safety groups from countries worldwide and other provinces of Canada.

2. We have a research and development department that enables us to not only stay on the leading edge of developments in occupational health and safety, but also embark on projects that are unique and innovative.

3. We are continuing to improve our database of workplace health and safety needs, upon which we are building client-focused products, programs and services, and that database will be in demand around the world.

4. The materials and services that we provide must be marketed in the busy world of today and thus we have a professional marketing and communications department, complete with desktop publishing, a graphic artist, and other modern-day tools.

5. We have today one of the best, if not the best, occupational health and safety libraries in Canada, if not in the world.

6. We have a network of volunteers across the province that must be allowed to grow and would be lost if a bureaucratic system discouraged their participation.

I could go on and on with a litany of the proven strengths we can bring to the proposed workplace agency, but suffice it to say that the IAPA has been a major player in occupational health and safety for close to 75 years. It continues to change and improve with the times, and thus we address Bill 208 as an exciting challenge, leaving the arduous task of compromise as to the details of the bill to your committee assisted by the counsel of the various organizations that will appear before you.

Forged alliances are the key to addressing the problems of occupational health and safety. It has been proven that partnership in this field can work. Let's get on with the job.

The Chair: Mr Ramsay, we are virtually out of time, but perhaps Mr Miller has a generic question that can deal with everyone's.

Mr Miller: It is nice to see you back, Russ, as a former Minister of Labour and colleague of ours, with the imprint you are giving to protection of everyone in Ontario.

My question would be that for the Workplace Health and Safety Agency, it has been suggested there be a neutral chairman. In my view, I think it is important to have co-operation between management and the workforce, and I think it has been pointed out very clearly this morning by the two presentations. Do you think that neutral

chairman should be neutral, or could he be selected from the existing members on some kind of a basis from within the system itself?

Mr Ramsay: We do believe that a neutral chairman is necessary, because there are all sorts of opportunities in the rest of the structure to have that liaison and co-operation between labour and management. I point as an example to the Occupational Health and Safety Educational Authority, which is in place at this time and is represented here today, I believe, by Stewart Cooke. We do have a case there of Mr Cooke representing labour, Mr Ridout representing management, and we have a neutral third party.

In my estimation it has proved to be extremely successful. We have had nothing but great support, assistance and encouragement from that group. I see the new workplace agency just replacing OHSEA, but replacing it in an enhanced way with additional members.

The Chair: Mr Ramsay, I do wish we had more time because the IAPA is an interesting part of this whole health and safety structure out there. I am sure the members have a lot of interesting questions, but we really are out of time, so thank you very much for your presentation.

1150

The Chair: The next presentation is from the Ontario Liquor Board Employees' Union. I see Mr Stevens here and some of his colleagues. Mr Stevens, we welcome you to the committee. I think you made a presentation on Bill 162, did you not?

Mr Stevens: I think I made a few.

The Chair: A few, yes. We welcome you to the committee. The next 30 minutes are yours. If you will introduce your colleague, we can proceed.

ONTARIO LIQUOR BOARD EMPLOYEES' UNION

Mr Stevens: Thank you very much. I would like to introduce our new president of the Ontario Liquor Board Employees' Union, John Coones. Mr Coones will be presenting our brief, and I will be fielding the questions afterwards.

Mr Coones: The OLBEU has paid close attention to Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act, since its introduction on 26 January 1989.

We were hopeful that given this bill's framework, our members and all other workers of Ontario would finally receive the mechanism

needed to ensure safe and healthy workplaces. However, with the introduction of the changes to Bill 208 presented to the Legislature by the Minister of Labour on 12 October 1989 it became obvious that the business lobby, specifically the Canadian Manufacturers' Association, has succeeded in its efforts to decimate the framework of the bill's original principles. The reason we state this is that we received a copy of the letter sent to Premier Peterson, along with an analysis of Bill 208, from the president of the Canadian Manufacturers' Association, Mr Thibault.

Since almost all of the amendments objected to by the CMA are part of the minister's changes to Bill 208, we feel that this is definitely not a coincidence. Therefore, we have grave reservations regarding the objectives and the purpose of the minister's proposed changes to the bill's original framework.

We will attempt to address our concerns regarding the proposed changes presented by the minister and introduce new information that may enlighten this committee's perspective towards the new knowledge that the minister referred to in his introduction of the proposed changes.

The agency's bipartite structure as originally proposed is indeed workable. This has been proved by years of collective bargaining, during which time labour and management have almost always been able to reach an agreement. If the structure of the agency is modified to accommodate a neutral chair, the agency becomes tripartite, and the necessity for labour and management to reach a mutual consensus on the many sensitive and significant issues that must be dealt with is negated, for obviously the final decision, of course, will rest with the neutral chair whenever the supposed partners reach an impasse.

It also stands to reason that eventually the neutral chair, having final decision powers at the director level, will most definitely control the day-to-day operation of the agency and therefore be under the direct control of the government.

The proposed creation of a neutral chair contradicts the minister's assertion that one of the basic principles of Bill 208 is strengthening the labour-management partnership, as the addition of the neutral chair becomes the tie-breaker. Therefore, the partnership that the minister deems necessary in achieving a safe and healthy workplace becomes unnecessary in the decision-making process of the agency.

We would suggest that, on the few occasions when indeed an impasse is reached by labour and management, possibly a mechanism for media-

tion be established to resolve that specific issue, thus ensuring a concerted effort by the parties in reaching consensus instead of relying on the neutral chair.

The bill originally allowed workers to refuse work activity that endangers their health and safety. Now the minister proposes to restrict the interpretation of activity to an "imminent hazard" or "threat." This restriction, if imposed on Ontario workers, will not make Ontario the leading jurisdiction, as the minister states, but make Ontario's legislation one of the least effective in Canada. It appears necessary to remind the minister that the Ontario Legislature considered this restriction in 1978, when the Occupational Health and Safety Act was debated, and soundly rejected it.

At present, workers in Ontario already enjoy the protection under the present act of refusing to lift heavy loads, and more importantly, workers have actually refused to perform a work activity where the design of equipment and tools or the repetitive nature of the work activity was felt to endanger the worker. The Ministry of Labour has upheld this interpretation and the action taken by workers under the present act's right-to-refuse provision.

Obviously the restriction of imminent danger is a backward step of enormous proportions and does very little towards enhancing a safe and healthy workplace. We would suggest that the provision, as originally proposed, remain in the bill without the changes the minister has proposed.

Bill 208 established in its original provisions the right of certified workers to act in preventing serious injuries, illness and death when necessary. The minister has essentially removed this right in his proposal. The minister states that allowing a worker certified member the right to stop work unilaterally somehow jeopardizes the partnership concept promoted in the bill.

The minister, by stating this, proves to labour that the partnership he seeks is one of unequal status, with labour, as always, playing second fiddle to employers, because, as you are aware, the management certified member will undoubtedly attempt to prevent work stoppages at any cost, as in all probability his or her future employment will depend on his or her ability to prevent such occurrences.

Therefore, as long as the worker certified member has the right to stop work unilaterally, the onus for ensuring a safe and healthy workplace, which would not require such a drastic measure as work stoppage to be imple-

mented, falls squarely upon the employer who has the complete control of the workplace and the workforce.

For the minister to expect the employer's certified member to jointly agree to any work stoppage prior to a serious injury or death in the workplace is a naïve perception which ignores the facts, namely, the present internal review system of jointly inspecting and agreeing on action required in preventing unsafe or unhealthy workplaces is a dismal failure, proved by the ever-increasing carnage taking place in Ontario workplaces. Eighteen hundred accidents a day and over 300 deaths a year demand that workers have someone they know they can depend on to ensure their safety, for it is obvious that they cannot depend on their employers.

The minister concedes that there are good and bad employers, and if an employer is determined to be bad, well, then and only then will the worker certified member have the right to stop working unilaterally. This being the case, why is the minister apprehensive of permitting the unilateral right to stop work by the worker certified member in all workplaces? Given the premise of good and bad employers, obviously work stoppages would not be necessary in a good employer's workplace.

On the question of determining a bad employer, the majority of our members, 4,000, are employed by the Liquor Control Board of Ontario. These workers are employed in retail, offices and warehousing facilities across Ontario. In 1989 the union computerized the system of recording the WCB lost-time injuries, as reported to us by the LCBO, pursuant to section 121 of the Workers' Compensation Act. We discovered that during 1989 the LCBO had a total of 587 lost-time accidents, or 49 a month. This means that one in 6.8 unionized members suffered a lost-time injury.

These statistics are appalling, given the types of work being performed by our members. Although something is obviously wrong, our employer will still not review lost-time accidents with the joint health and safety committee. Therefore, we wonder if the minister would consider the LCBO a bad employer. We do with regard to health and safety.

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We recognize that the implementation of worker certified members in the workplace will not be a cure-all, but we recognize the need for a mechanism to protect our members. Hopefully the minister will take off his employer's hat long enough to recognize that the principle of a worker

certified member's right to stop work when and where necessary is the only mechanism that will ensure that employers take the health and safety of their employees seriously, where it will put both partners on an equal footing and enhance the resolution and prevention of workplace hazards by joint consensus at the committee level.

We feel strongly that this committee should ignore the minister's proposal regarding the worker certified members' right to stop work when necessary. It is our experience, and that of the entire labour movement, that these organizations are biased in opinion and structure against the workers. They are employer-dominated and staffed by individuals who reflect this in their actions and lack thereof.

According to Mr Thibault in his 2 March 1989 letter to Premier Peterson, these associations are "generally effective." How can this statement be justified, given the ever-increasing seriousness and numbers of accidents and deaths occurring in the workplaces of Ontario? The statistics have proved that naming these employer-controlled, inefficacious organizations "accident prevention associations" is in fact a misnomer. We would suggest that this committee not backtrack from the original proposals in regard to the supposed accident prevention associations.

We have many more concerns regarding the shortcomings in other areas of the bill and the proposed changes; however, given our limited time, we are confident that these concerns will be addressed fully by our brothers and sisters in their presentations before this committee.

Therefore, with the time remaining, we would like to introduce a paper by Dr Peter T Suschnigg, PhD, who is presently with the department of sociology and anthropology at Laurentian University. This paper, entitled *Unionization, Management/Labour Relations and Lost-Time Accidents*, presents the preliminary findings of a study investigating the effect of management/labour relations on the lost-time accident record of three large integrated steel mills of Ontario.

The steel mills' joint health and safety committees were categorized into three models: accommodation at company A, resistance at company B and compliance at company C. The paper's purpose was to determine whether injury frequency rates were lower in the model of compliance or in the model of resistance.

This study unknowingly looked closely into the arrangement the government is attempting to impose on Ontario workers, as it was completed prior to the bill's introduction. It examined the

partnership model to determine if it was a panacea for all the health and safety concerns of the province. The study refutes the minister's premise that partnership alone will alleviate or reduce workplace injuries. The partnership model experienced a frequency of lost-time injuries 31 per cent higher than that of the model of resistance.

We hope that this committee will study the paper thoroughly before allowing the minister to change the amendments on the worker certified members' right to stop work. Upon studying the information contained therein, we are confident that this committee will conclude that some degree of resistance is necessary to ensure that employers comply with joint health and safety committee recommendations.

In conclusion, the Ontario Liquor Board Employees' Union is most disappointed that the minister has decided to backtrack on most of the proposed amendments contained in Bill 208. Obviously, as with Bill 162, the minister has acceded to the demands of the business lobby, specifically the Canadian Manufacturers' Association.

This committee must remember that these special interest groups, since their inception, have but two objectives: Increase profits and maintain unilateral control of the workplace. They are not at all concerned with preventing accidents, nor were they created to deal with workplace hazards. They were created to ensure that workers were prevented from influencing or requiring the government to implement strong legislation, as contained in Bill 208, which to a small degree allowed workers the independence of decision on matters such as health and safety.

The labour movement has for years seen employers weigh the costs of ensuring safety and healthy workplaces against the cost of paying WCB benefits. Unfortunately, it is labour's experience that employers have but one concern in the area of health and safety, which is of course the bottom line.

Again, I thank you for your time and for listening to our concerns.

The Chair: Thank you, Mr Coones and Mr Stevens. We are going to try to get a copy of that report.

Mr Stevens: It is included.

The Chair: Oh, the whole report is in this.

Mr Stevens: There is a preliminary in there. I spoke with Dr Suschnigg and he replied in a letter. He has the final report and the study is complete. He noted that the company that ascribed to the partnership mode the most would

not reveal all of its files and so forth regarding health and safety in its workplace. It is kind of an interesting axiom. They say partnership is foremost in health and safety and that is the way to achieve it; yet they would not allow Dr Suschnigg total access to their people.

The Chair: What is the difference between an accommodation and a compliance partnership?

Mr Stevens: The accommodation model was basically—I guess I will say it—the Sault Ste Marie-Algoma experience where you have a mill that could be highly productive but through economic pressure has to shut down certain areas of the operation. So there are layoffs facing the union and the union has to trade off. He explains it very well. You cannot be too adversarial, nor could they be too much into the partnership because of their trade unionist backgrounds, but the outcome is the accommodation model.

I think you will find compliance very close to what the Industrial Accident Prevention Association described as a model. You will also find that the compliance company is Dofasco, of course. They have an exemption from the minister, so they run their programs quite outside of anything that anyone else would want to do. It has to be noted that it was 31 per cent higher.

I would like to read the very last paragraph in Dr Suschnigg's conclusions.

The Chair: Okay. We want to make sure there is time for an exchange with members. All right. It is going to cut into the time, but go ahead.

Mr Stevens: "Implicitly these findings warned against a dim-sighted faith in the efficacy of joint health and safety committees as legislated at present. The mere existence of a committee is no more likely to have a salutary effect on accident rates than is the presence of a union. Finally, the onus is now on the proponents of the family model"—family model being the proponents of partnership—"to demonstrate that industrial health and safety are best served by co-operative solutions and a consensual relationship."

The Chair: Okay. Let's get into the questions.

Mr Mackenzie: I might say that your comments about the three steel mills tie into some charts that we received during the presentation from Local 105 as to the safety standards and accident rates in all of the steel mills, which are a tie-in to this and of some interest.

I have one question. Should the bill go through with the suggested changes the minister wants, can you see that one of the first battles your people will have is a dispute over whether or not

your employer is a good or a bad employer, given the evidence you have put forward?

Mr Stevens: That is a \$64,000 question. Who wants to adjudicate that question? Who could adjudicate that question? An employer can hide many things. An employer can hire a consultant, as the liquor control board did, and this was going to really change things; it was going to bring things right up front for our workers.

You go to the consultant. What does he say? You say, "Geez, we could do this; we could do that." He agrees. He has agreed 100 per cent, except that he has no power to change anything, nor can he afford to do it on his budget. So what is the point? You have paid somebody \$65,000 a year to provide \$65,000 worth of lipservice. That is the experience in the workplace and that is in the public sector and in the private sector. I think you are aware that I came from steel.

1210

Mr Mackenzie: Maybe one of the concerns you should have as well is that it is possible they hope to have enough of you privatized that you would no longer be, in effect, government employees; an agency that the government had some control over. I have not won that one yet.

Mr Wiseman: I want to thank you for your brief, but I really do not agree with your last paragraph and the last sentence there, still being an employer of some people, to have every employer lumped into what you say here: "Unfortunately, it is labour's experience that employers have but one concern in the area of health and safety, which is, of course, the 'bottom line.'" I would like to tell you that is not true. You may find that and if you do, I think you are within your right to state it about your own employer, but you should not put it in general because that is not true and I know it not to be true.

Mr Stevens: You may be the exception.

Mr Wiseman: We should only talk about the ones that we know personally. I think if your immediate employer is defined in that way, say it, but do not lump everybody into the same pot.

Mr Stevens: Excuse me, Mr Wiseman, you may know or not know that most mines operate strictly on a bottom-line basis and you may understand that years ago, and even today, they measured the cost of raises against the cost of death claims or whether a death claim could be established. This was something that has been done, it is ongoing and it is part of business in Ontario. It may not be part of your business, but it is part of the majority of businesses, a normal,

everyday exercise of business, because the government—

Mr Wiseman: Mr Chairman, we should only talk about the ones we know and not lump everybody in the same pot, because that is general. I know a lot of good employers who work as a family company and they look at those employees as almost one of the family

Mr Stevens: Most fathers take care of their sons.

Mr Wiseman: They do not want to see them hurt any more than you want to be hurt or I want to be hurt and that is the bottom line as far as I am concerned. Talk about what you have experienced. If you have been in the mines, you can speak on that. Please do not—

Mr Stevens: I can speak for every employer I ever worked for.

Mr Wiseman: Well, I have not had the choice of working for a whole lot of employers, but I have had a lot of employees work for me who have gone right through their whole work time frame till now working. I hope they are quite happy and do not feel I am trying to put them in an unsafe position or do not care. I know a lot of employers who are in that same boat. When somebody comes in and gets excited and says that of all employers, that bugs me.

Mr Stevens: Could you name a few, Mr Wiseman?

The Chair: I will not ask you whether Bill Davis was a good employer or not, Mr Wiseman.

Mr Carrothers: I guess most of the questions I had on that report were asked, but I just wanted to get a comment. Maybe it is leading a bit from what we have just heard, but from what I have seen so far and what I have experienced in the workplace and with companies, the best results appear to be in those areas where there is a lot of understanding, trust and faith between all the parties in the workplace and they all sit down and agree that they have got to make it a safe place. The examples we have seen before the committee of good safety records seem to have that part of it; everybody just sits down and gets the job done, they do not worry about whether they are management or whether they are labour, whose side their on, whatever.

Leading out of the paper a bit, we have had a number of people come in and suggest that it is working fine in certain areas; do we want to introduce an element of, not controversy but confrontation to the system? Would that help or would that hurt, or is this something we need to look at in those areas where things are not

working? It is obviously clear that in some workplaces things are not working properly and that is also very evident from what we have heard.

The problem I am having is in trying to fix it where it is not working without wrecking the system where it is working. We have had many come in and suggest that too much confrontation or setting up a system that seems to require one party sort of policing the other might harm things in certain elements of the workplace. I was just wondering if you had any views on that.

Mr Stevens: I have some views, definitely. If you sit down and you are supposed to be partners and you sit at the partnership table, so to speak, and one partner who is sitting across from you can shut down the mill, control the workforce, pressure individuals, then you are not really sitting down as partners. You are sitting down as a junior partner of the other.

If you are sitting down and both partners have the same equal footing, albeit the right to shut down unsafe work or a department—I do not say a whole plant—then you are sitting down as equals. If this partnership fails in its commitment, this partner can do something immediately about it. It does not mean he has to have a work stoppage but this partner has that ability, so this partner has to comply with the recommendation.

You make recommendations now at a health and safety table and they will come back to you 30 days or 90 days later—and this is a government agency we are talking about—and they will say, “We have looked into it and we still have not got an answer.” What did they look into? An alternative form of earplugs for our Durham warehouse. They looked into it and could not find an alternative pair. They are researching this. There are six pairs in North America that are widely used. It goes on and on over a 90-day or six-month period because they are getting earplugs at two cents each whereas they might have to pay nine cents each for the alternative that someone can use.

Mr Miller: What are the earplugs for?

Mr Stevens: Noise in the Durham warehouse—90-decibel noise on a consistent basis.

Mr Miller: From where?

Mr Stevens: From the machinery in the Durham warehouse. It is 11 storeys high. It is computerized. It has walling. If you go in there some time you would see the manual pallet-loading stations. You would be surprised by the amount of consistent noise. But these things go on. It is the same as the choice of safety boots; meanwhile you have a man working with improper boots. You do not have a partnership. You have management. The master-servant relationship continues.

I think you have to start at health and safety. You cannot look at it as us and them. You have to look at it together. That could be the partnership thing. But to achieve a healthy and safe workplace, I think you have to go about it with a certain amount of adversarial blood still at the table.

Mr Carrothers: I think I agree. Maybe that is the point I am making. It is not an us-and-them thing. Hopefully that is the way it will be solved. The challenge is to have it work as an us-and-them situations in those cases where that partnership does not exist. You may be outlining an employer, who may well be a government agency, that is one who needs a little kick—maybe a large kick.

Mr Stevens: We got modified work out of the Bill 162 hearings. It was amazing that was the day after. I have to admit that I was surprised. We sat here on a Tuesday and Wednesday it was put on the bargaining table and they would not even talk about it before then, so things do happen when you come to the committee.

The Chair: You have come to the right committee. Mr Stevens and Mr Coones, thank you very much for your presentation.

The committee recessed at 1217.

AFTERNOON SITTING

The committee resumed at 1406 in committee room 1.

The Chair: The committee will come to order. As members know, we have a full schedule this afternoon, starting off with the International Efficiency Institute, a terrifying name for an organization, and Mr Devassy is here, the president of it. Welcome to the committee. I wonder if you could just tell us very briefly what your organization is and then we can proceed. The next 30 minutes are yours.

INTERNATIONAL EFFICIENCY INSTITUTE

Mr Devassy: My name is Jacob Devassy. I am from the International Efficiency Institute, a research and consulting organization. On our team we have Gordon Ellis, the first Canadian to be elected to the international operations management group. We have Dr H. A. Crowe, who is a national council member of the industrial psychology research association. We have Ian Hill, past president of the industrial engineers' association. We have Dr S. P. Dutta from the University of Windsor, in industrial engineering and ergonomics, and Dr Ravi Verma from the University of Toronto, in human resources management.

I was personally involved in doing the research. I was chairman of the safety committee during a one-year period of time. I was a worker representative. In doing the research, I signed myself as an ordinary worker for the labour agencies. I got into different companies and worked as a labourer and I got hurt myself. I am an injured worker and am on a compensation payment of \$100 a month for the rest of my life for the injury I suffered.

The title of the presentation is, "Industrial safety is a not a management-versus-worker issue; it is a training or economic issue." The solution is very simple. It will not cost you a penny.

I do not know whether everybody can see this very clearly, but I am drawing your attention to the simple formula, competence or efficiency in the international market, which we are trying to achieve, is equal or proportional to productivity—I am doing some projection analysis; I will show you the relationship between Bill 208 and what I am talking about—productivity plus quality plus morale of the workers plus safety.

Here we have only 70 per cent productivity. Generally in North America, although we are one

of the seven most industrialized nations in the world, we are only 11th in international competence. In morale, we are so low—the workers' morale—we are number one in losing working days due to strikes and lockouts. Safety is a political issue, escalating six persons in every year nationally.

We are looking at the general inefficiency of the operation of industries, our incompetence to compete in the international market; that is what we are talking about. These are all related issues: productivity, quality, morale and safety. Now we are trying to find an answer to the safety issue.

You must know, world's data are factors. If you take it that way, the Japanese industries, a lot of them or most of them, do not have any safety committees; they have a quality circle. In that quality circle the workers are participating to improve the productivity and quality. They spend 50 per cent of their time in the improvement of productivity, 45 per cent of the time in the improvement of quality and automatically safety falls into place, the reason being that every ingredient that goes into the safety goes into productivity and quality, and because workers' participation is there, the morale of the worker is boosted. If these three are all right, then this falls into place automatically.

We are trying to find a solution to this issue with Bill 208. Where I am, we have safety committees. Our own research—we wanted to check it out—in a Canadian perspective. What we did was that we used a wise person of the Canadian safety engineers' association in numerous plant studies to go and check the safety problem. In order to improve the productivity and quality problems, we used operational management experts, industrial engineers, industrial psychologists and ergonomists and prepared a report. When we looked at the report, we found that everything that is picked by the safety person is picked by the productivity and quality improvement experts.

Not only that, I wanted to invite your attention to another story where if you go into an industry and ask for their accident data for the whole year and for the safety committee and their visible hazards they picked up and presented to the management and you have both on the table, you will not see any relationship between the actual accidents that are happening and the visible hazards picked by the workers themselves.

Why? Most of these accidents are caused by stress, which is generated by the wrong philosophy, quality and systems in production and visible and invisible hazards. If we are told there is a snake in this room, we are really careful about the snake. Doing so, we will never get bitten but we may bang our heads on the wall. The general tendency, even by the co-workers and the management, is to call these workers stupid and careless.

It is true; it looks like that. But the worker who brought a lot of problems from his home in the society, a lot of stress, it is being aggravated and compounded by—instead, the job should be to have a therapeutic effect—by the wrong philosophy of quality in systems and production and the visible and invisible hazards.

If the worker, like me who was a safety committee member and chairman of the safety committee, and the management are very honest and say, "Solve this problem," how can we solve where all these accidents that happen do not have any relationship to the visible hazards that are really picked up in the workplace?

Here we are talking about worker and machine and raw materials. We are using the right philosophy, policy and systems for the most effective and efficient utilization of these three factors to achieve the most competence to compete in the international market, as Northern Telecom is doing, to get the highest of productivity and quality and morale of workers and safety.

The productivity and quality as per Dr Edward Deming—most of you might have heard of him—he is a hero in Japan; I have a letter of approval on what I am talking about. But the misfortune is that the productivity and quality improvement people, hundreds of them we have nationwide, one end to the other, do not talk one word of safety. They are all there to make these industries most competent, and if you properly do the productivity and quality improvement, there should not be any accidents. There should not be any negative stress in the workplace. So there is something wrong.

Let's just take this formula and put it horizontally. When we put it this way, we find that productivity was our issue during the Industrial Revolution. Here we were covered by the British North America Act. Industrial accidents were not a particular issue until the workers were getting hurt. Slowly the big hue and cry about it came. Safety departments were created in industry. The Ministry of Labour was created to help the workers, to protect the workers in

safety. The International Labour Organization in Geneva was handling safety issues.

Here the Ministry of Industry, Trade and Technology was created to protect the interests of the industry. There is the Ontario Centre for Advanced Manufacturing, which shows industries how to improve their productivity and quality. To compete in the international market they get \$7 million. The Industrial Accident Prevention Association, connected to the Ministry of Labour, gets \$14 million to solve the safety problem.

Two in the same government, or same structure, on either side; one is looking after productivity and quality and on the other side they look after safety. These people, if they are doing a proper job of improving productivity and quality, there should not be industrial accidents. That is the Japanese experience.

They opened up a shop here, a Honda plant in Alliston. They have zero accidents, zero frequency. They say that their safety committee—because the law is there, they abide by that. Otherwise they do not find anything for that. This issue goes all the way up to world banks and economic institutes which show industries or nations how to improve productivity and quality. All this is part of the United Nations.

This problem in the academic area where universities and colleges are going in the middle—if you look at the MBA program where they talk about productivity and quality, there is not one word about safety. I am saying in my article in the *Globe and Mail* and the *Toronto Star* that these are all branches of knowledge which it is now possible to obtain from all the different universities.

They never met together to reach a consensus on what should be the success formula. In other words, something needs to be a science. Chemistry: there should not be a Russian chemistry, an American chemistry and a Japanese chemistry. Chemistry is all the same. But why is this so different? Because all branches of knowledge that demand efficient operation never met together to reach a consensus on a success formula to be passed on to anybody.

If Northern Telecom is following a scientific pattern and Japanese industries are doing the same—I was making a presentation to the Japanese Manufacturing Association. I said: "You guys are doing it in the scientific way. We are interpreting it." If somebody interprets in a scientific way, then down the line, anybody down the street can copy it for the workers.

Our studies have shown that we are inviting the workers in productivity and quality improvement. In one such study report we have, the suggestions came from the workers. If you look into it, you will see that these suggestions contain the conventional wisdom of the worker, even though he is only grade 4, because of his man-machine interface the suggestions he is bringing forward have all the ingredients of all branches of knowledge. Put it in an inefficient operation.

Toyota got 95,000 suggestions from their employees and they implemented 90,000 of them. So what we are talking about is looking at safety from a perspective of productivity and quality improvements which will be very—managements will be extremely happy to hear it rather than: "You talk about safety. Okay, it comes to push and pull." If we are spending so much money through the Ministry of Skills Development on the Ontario Centre for Advanced Manufacturing for the improvement of productivity and quality, and then on the other side on safety, it is a single matter of integration. It is simply philosophical in nature. It will not cost one penny for the government to accomplish. Hundreds of manufacturing consultants from tomorrow onwards will be selling safety. They will be talking the language of productivity and quality improvement, and safety will fall into place automatically.

1420

Our research results we are bringing forward to show that the solution is very simple, but so far with the people I have presented it to, I notice that nowhere in the scenario is anybody really sincere about accident prevention; it is simply playing politics. They want to hold on to some of their vested interests. They do not want to lose their grants. They do not want to lose their position. That is all.

You are trying to solve this problem of safety and we are trying to compete in the international market where our productivity is so low, quality is so low, morale is so low. There is more to talk about. I could explain how the Japanese and the Germans overcame this problem and an interpretation, but the time will not let me do that so I am suggesting questions from the committee.

The Chair: What is the relationship between what you talk about and what they call the quality circles in Japan?

Mr Devassy: A quality circle is a committee of the workers, just like the safety committee we have here—it is voluntary; it is not mandatory—where the worker is sitting with the management

staff where they spontaneously come up with suggestions to the management. One thing I want to make you understand is that quality improvement is not to put workers on roller skates; no. It is actually cutting down the unnecessary physical movement of a worker, making things closer to you and arranging the plan, until everything is in such a way that the worker produces more with the same effort that he is already putting in. So physically he does not have to put any more effort into it.

I presented to the Ontario Federation of Labour. I met Cliff Pilkey. I met the Canadian Labour Congress. I met Bob Rae. I met—you name it. I met a lot of people. When I met Gregory Sorbara two years ago and I asked for permission to go and have a talk with the president of the Ontario Centre for Advancement in Manufacturing, he said, "Okay, do it." But when I went and talked to him, he said, "You are too small to have negotiations with such a government organization." Other consultants will testify to you that it is the norm where you have to have a big, big office and only a big consultant will be only let in to have something to talk about.

Here we are talking about a very simple thing, for the best interests of the management, to improve the productivity and quality, to bring the best interests of the workers, to be more productive. You can see the same scenario that is happening: yesterday in Moscow; every day in eastern Europe. This is an issue of productivity and quality improvement. The worker works. He is supposed, according to historical and dialectical materialism, to be his own boss and with the dictatorship of the proletariat where all the inhibitions and suppressions are gone, he is supposed to be most productive and quality conscious. It is the other way around, the communist bureaucracy, the totalitarian or the suppression of happenings. Now they are breaking out of it and coming out. It is actually a productive and quality improvement. It is nothing more than glasnost and perestroika.

The Chair: I knew that eventually we would have a Marxist debate on this committee. I am very pleased to hear it.

Mr Wildman: Essentially what you are saying is that you have to have worker participation in order to improve safety in the workplace, as well as quality of production and the volume of production.

Mr Devassy: Exactly. When we started, it was the International Safety Institute. Now we call ourselves the International Efficiency Insti-

tute. We took the word "safety" out of the vocabulary because we are telling management something they like to hear, productivity and quality improvement.

Mr Wildman: Surely, that seems obvious. If there are accidents in the workplace that hurts production, does it not?

Mr Devassy: Exactly. A slippery floor, a runaway elevator, these are not exactly a safety issue; they are a productivity issue. The provincial maintenance program by which a runaway elevator should not happen is part of the productivity improvement program. It is changing the perception, that is all. If we want to compete in the international market, we cannot be limited in the international market. Here we are talking the language of most productivity and quality improvement, but the worker morale is important.

The Chair: Any other members?

Mr Devassy: And one unfortunate thing I want to present—I am sorry.

The Chair: Mr Wiseman had a question.

Mr Wiseman: You seemed to dwell on the morale of the employees, and we have not heard an awful lot about that, I do not think, as we went around. But anyone I can think of working with people would realize that if you do not have good morale, you do not get the productivity and all the other things out of it. As you mentioned, knowing one or two Japanese firms, they seem to use some of the methods you have outlined here today and seem to have the productivity. Not only that, but they have good products, sometimes much superior in the automotive industry than some of our own. They have been able to achieve that. I wonder if what you told us here this afternoon is along the lines of the Japanese formula or whatever they use.

Mr Devassy: The Japanese Honda plant in Alliston—the international vice-president of Honda makes a statement from Tokyo saying that the Canadian workers made number one cars better than their counterparts in Japan. They have got zero frequency of accidents too. Here they say that management rather than national or cultural environment is the principal factor in ensuring efficient high-power, quality production.

In other words, they come to Canada, they hire the Canadian workers, they get highest productivity and highest quality. They go to Africa, hire the African workers and they get the highest productivity and quality. How come? That is not what we usually talk about here. We say, "We are down and they are high." No, there is no

cultural—these kinds of things have nothing to do with it, and they are proving it. They go anywhere in the world and get the highest productivity and quality. It is only the management principle. It is simply a perception, that is all.

As a matter of fact, these people who are involved in accident prevention, I doubt whether it is in their best interests that they are working, because they do not want to see us any more. When the article was in the *Toronto Star* and the *Globe and Mail*, the Industrial Accident Prevention Association printed it in its magazine with a special mention about my name. They put in a caption saying, "Who is to blame for accidents? Jacob Devassy says, 'Most of the accidents are caused by stress which is generated by the wrong company philosophy, faults in the production systems and by visible and invisible hazards.'" That is it. It was visible to the 64,000 industries and they do not want to see me any more, or any of our members. Why?

Mr Wiseman: I know time is running out. This morning we had a group in that makes auto parts. I got a chance to talk to them outside, and there is pretty much a counterpart in Florida. They show very few lost-time accidents in Florida because the workers' compensation down there is a different setup than it is here. He has said he is often raked over the coals because it seems he has so many lost-time accidents in auto parts in Ontario, and they want to know why in Florida. I wonder if Japan is having a lot of accidents, but because maybe it has watered down workers' compensation compared to what we have here in Ontario, it is not showing them as lost-time accidents and so on, making its productivity and everything look so much better than ours.

Mr Devassy: In Japan they have sweatshops and nothing is built into the labour code, whereas in Germany it is. So you can see industries like Toyota or good companies out there with high quality and less accidents where there are industries with a serious health and safety problem.

1430

Mr Wiseman: I just wondered, though. We know they have good productivity and one thing and another, and a good product at the end, but do they have a comparable workers' compensation setup like we have in Ontario, or is it like Taiwan where anything seems to go?

Mr Devassy: We did not get a chance to look into that area statistically, in Japan or Germany.

Mr Wiseman: Do they have workers' compensation?

Mr Devassy: They have social benefits. How it is in Germany—it started actually in 1880. By 1913 they had all kinds of social benefits, which we find here, in place and the unions did not have much to bargain for or ask for. So in 1933 when Hitler came and threw all the unions out, he still enjoyed the support of most of the workers. But in 1945 when Eisenhower was moving in, he reinstated the trade unions back into place. Because managements were supporting the Nazi Party, the workers' demand at that time was, "We want to have a hold on management." So they have a system where 2,000 of all workers should have—any firm must have half of the director members from the workers and half from management.

The evolutionary process by which the German workers or German management now have a participatory management system, most of it is written in the labour code, like something on stress, for example, whereas we have a brochure from our federal government on stress. This is the labour code in West Germany that it is written into. We cannot simply copy it, no. It happened in an evolutionary process and we are not suggesting to do that again. But what Germany accomplished is a participatory management system, which is not quite visible because most of it is written in the labour code. But in Japan I think it is not written in the labour code. There a participatory management system is a most voluntary thing. That is why you can see sweatshops in Japan and no sweatshops in Germany.

The Chair: Just one quick final question.

Mr Wiseman: I know we are pretty nearly out of time. I wondered about the—oh dear, my train of thought went pretty fast. I better leave it. Did you ever have that happen to you?

The Chair: Not with someone like this speaking to me, no.

Mr Riddell: You know what that is a sign of, old age.

Mr Wiseman: Yes. My wife tells me that.

The Chair: Mr Devassy, we thank you very much for your presentation. It is always good to force the committee at least to flirt with ideology. We appreciate your presence here this afternoon.

The Chair: The next presentation is from the Toronto Workers' Health and Safety Legal Clinic. I do not know whether we will get exposure to dialectical materialism in this presentation or not. Mr Leitch is here. He is an old

friend from Sudbury. David, welcome to the committee. Are you by yourself?

Mr Leitch: I am. The chairperson of our board of directors was going to be present but is unable to be.

The Chair: The next 30 minutes are yours. You can proceed.

TORONTO WORKERS' HEALTH AND SAFETY LEGAL CLINIC

Mr Leitch: I think I should perhaps say something about the clinic that I work at. It is the Toronto Workers' Health and Safety Legal Clinic. It is a legal aid clinic like the legal aid clinics that may exist in your constituencies, except that this one specializes in occupational health and safety cases and advocacy generally for unorganized workers; that is to say, workers without unions.

One of the things we do in addition to case-by-case advocacy is law reform initiatives, and as I indicated in the introduction to our brief, we have made a substantial, I hope, contribution to the debate already because we submitted a brief to the assistant Deputy Minister of Labour before Bill 208 was introduced in the House. We did that in November 1988 and we are here today to make some of the same points that we made in that brief. In fact, we were disappointed that some of the things that we suggested—how the law should be changed—in our original brief have not been followed up in the bill that you have before you.

Not only are we disappointed with Bill 208; we are very disappointed, and even disturbed, by the new minister's decision to introduce further amendments to the bill which we think will undermine whatever progress would have been made. We would also make a point that I do not know if other deputants have made, which is that we do not have before us the legislative language that the minister proposes to make these changes in. From the point of view of a legal aid clinic or a lawyer, we would like to know what the legislative language is because that is the way we would analyse what the government is proposing. We object to the fact that there is not anything like that before us.

The brief essentially goes through the substantive provisions of Bill 208, which I propose to do. About halfway through my comments on Bill 208 I am going to switch to the new minister's proposed changes to Bill 208.

We have to begin with, as we did in our critique of the law as it currently is—that is, pre-Bill 208—to look at some of the areas where

our law is already not adequate and where Bill 208 does not do anything to correct those inadequacies. The first one is that this bill does not propose that there be a statement of purpose for our law. We think this is more than window dressing because it permits workers to claim protective measures that go beyond the nonexistent legislative standards, or minimal standards that do exist.

We think that there should be a general obligation imposed on employers to engineer out hazards at the source—a very basic right that does not exist in Ontario law—and to also perform new research into new substances coming into the workforce. Our research tells us that in 1988 the American Chemical Society registered new chemicals at the rate of 70 per hour, or 500 each year entering the workplace. This is a very daunting number and it requires that new research be conducted on all those substances before they are introduced into the workplace.

Bill 208 does not extend the coverage of the act to include farm workers. As pointed out by the Advisory Council on Occupational Health and Occupational Safety—by the way, I do not know if you have got a copy of the advisory council's reports, both dealing with Bill 208 and with their small business task force for it. I got my copy on Monday. I think I am the first human being outside of the advisory council to look at it. I commend it to you. I think it will be supplied to you. My understanding is that the assistant deputy minister was going to supply this committee with copies of that report. It makes the point that really farm workers or farm businesses are not any different from any other businesses just because they are small, they are family owned, there is a transient or seasonal workforce. These things exist in other businesses as well and yet they are covered by the act.

Bill 208 does not fill the big holes in the internal responsibility system. Employers still have the right to ignore recommendations of their health and safety committees, and the recommendations do not even have to get out of the committee if the employer representatives on the committee vote against them. So there is a complete liberty on the employer's side to ignore the health and safety committees. Not that this goes on in every workplace—we do not suggest that—but it should not be allowed to go on in any workplace.

Bill 208 does not do anything to stimulate the IRS in small workplaces. First of all, there are not any joint health and safety committees where there are fewer than 20 workers. And the safety

delegate concept, which you may be familiar with from the Swedish model, has been ignored in Ontario. I might tell you that it is being accepted in Thatcher's Britain. It is an idea that is being given very serious consideration in England.

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Bill 208 requires employers to prepare and, it says, "implement" health and safety policies, but it fails to give workers any right to challenge the adequacy of those policies. Therefore, if they are inadequate, workers cannot do anything about it.

Bill 208 does not supplement the powers of Ministry of Labour inspectors by giving them the authority to issue administrative penalties. We are still stuck with the criminal law method of sanctioning offenders, which works in some cases but not in all. There is very substantial research now by a guy at Osgoode Hall named Rick Brown to show that more offenders are likely to be punished and the fines are likely to be larger if you use administrative law penalties instead of the criminal law model.

Bill 208 maintains whole categories of workers for whom the right to refuse unsafe work is simply denied without regard to whether or not there would be any endangerment to other persons, and in fact as we know sometimes with the result that other persons are endangered. Bill 208 fails to fully protect workers from wage losses when they exercise their rights, even if it is a Ministry of Labour inspector who calls for the shutdown. There is no wage protection for workers. Bill 208 fails to create a new tribunal with power to entertain all but the criminal—clearly they could not entertain the criminal aspects of occupational health and safety law, but we said that they should be allowed to, for example, hear appeals by joint health and safety committees from their employers' refusals to implement recommendations.

Bill 208 does not give workers' health and safety representatives or joint health and safety members the right to inspect and monitor the workplace whenever they consider it necessary. There is still a restriction now; in fact, it would appear that Bill 208 contemplates inspections of the whole workplace only so often as once a year. Bill 106, the Occupational Health and Safety Act, if some of you remember, allowed inspections at any time. Bill 208 did not remove the employer's right to reassign refused work, and again Bill 106 had removed that right.

Some of these areas where the government could have acted but proposes not to act were

subjects of recommendations made by the advisory council in its 11th report, which is now out, and in these other documents which I have referred to already. To come to the point quickly, our position on Bill 208 is that the people who we represent now are not going to benefit substantially from this legislation. When I say "people who we represent," I have to immediately add that in the absence of democratic union structures nobody represents unorganized workers in small workplaces, and that is our target clientele. We do not purport to speak on their behalf in any comprehensive way, but we do have occasion to represent them when they come to us, and our experience leads us to believe that Bill 208, on the whole, will do little to advance their interests.

Let's deal now with some specific aspects of Bill 208, what the government does propose to do with this legislation. First of all, the dividing line for health and safety committees is still 20 workers. The importance of that distinction is dramatized now because if you are under the 20 workers there is no requirement for a committee and therefore no requirement for a certified worker representative with the power to shut down unsafe work or training. In fact, workers who are in the smallest workplaces, workplaces with fewer than five workers, are explicitly denied any kind of representation at all, either health and safety representatives or health and safety committees. This is again contrary to the advisory council's advice, and we cannot understand at all why so little attention is being given to the problems of small workplaces.

Inspections and testing results: Again, there are unjustifiable restrictions on the right to inspect. The point I really want to make here is that although Bill 208 says workers can be present at the beginning of testing or consulted about testing or be given copies of test results, this is all nonsense. It does not mean anything because it does not give workers the right to initiate these tests. Workers have to have the right to inspect the workplace themselves, even if the employer is opposed to that happening, and with whatever resources or monitoring equipment is adequate for the purpose. We think this is really window dressing, saying that workers can be present while things are being done. This is not the important point; the important point is they should have the power to initiate these tests when they think it is justified. That point is made on pages 5 and 6 with respect to several aspects of what is called hazard surveillance under Bill 208.

Joint health and safety committees do not have to exist, as I have said, where there are fewer than

20 workers. Again, the advisory council said that the dividing line should be 10 and that is what we said as well.

Their composition is an important point which I hope others have drawn to your attention. Worker representatives on the committees have to come from the workplace but employee representatives do not have to come from the workplace. We say here that we think this creates a situation where you can have consultants, as it were, going from small workplace to small workplace on behalf of employers and essentially creating an expertise on the employer side that does not exist on the worker side and with the potential for intimidation of workers.

Again, apparently the minister says he is going to correct this, but the bill does not say that workers get to choose which one of their members becomes certified.

Bill 208 is completely silent on how joint health and safety committees are to be run. There are all kinds of issues: the frequency of their meetings; who calls the meetings; the language of the meeting, if there is an immigrant workforce; literacy levels and whether material can be distributed in writing or whether there should be some effort made to assist those who cannot understand; and quorum requirements. Guidelines and procedures are required for all of these points.

Recommendations of the committee, again, can be ignored. We think the fact that employers have to respond within 30 days means nothing, because their reasons do not have to meet any criteria at all, they can say whatever they want as long as they say it within 30 days. It is just completely unacceptable. It is not serious. A government that was serious would say that employers had to do something besides just respond. They have to actually implement or face some consequence.

We had envisaged, as I say on page 9, a situation where joint health and safety committees would be able to appeal to this new tribunal that we say should be created for a determination as to whether or not the health and safety committee's recommendations should be implemented, having regard to the purposes of the statute, the purposes of the statute being to prevent injury and disablement to workers, and of course there would have to be determinations made there with respect to how quickly employers could implement changes.

Our submission is that the tribunal should have the authority to take those economic kinds of considerations into account, but it must neverthe-

less act on the advice of the recommendation of the health and safety committee one way or the other; accept the appeal or deny it.

Because that mechanism does not exist, workers' only real power in the workplace is still to get the ministry to come in to do an investigation. That is their only power. They have no additional power.

Meanwhile, Bill 208 does nothing to build up the strength of the inspectorate or impose any performance standards on that inspectorate, like, for example, that it has to go into workplaces once every so often, once within a certain period after the opening of a business, or that it has to look at other things besides exposure limits and talk to workers.

I guess one of the flashpoints in this legislation is bipartism. At least, we regard it as an area of some controversy.

We are not entirely convinced that bipartism is an appropriate model right across the board where health and safety is concerned. Where education and research are concerned, we support bipartism so long as it permits—and the agency is prepared to fund—education and research on a separate basis, that there is no requirement for joint education, no requirement for joint research, so that joint research and joint education are only undertaken when the parties themselves jointly request it. The agency should be prepared to fund labour and management separately in those fields.

With respect to enforcement and standard-setting, we are not at all convinced that bipartism is the appropriate model. Our position and our strong belief is that the provincial government must maintain and retain its primary responsibility to enforce the minimal standards for the protection of all workers, particularly those who do not have the benefit of union representation. We regard health and safety in the workplace as an important branch of public health policy for which government must remain accountable.

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When it comes to standard-setting, similarly we are concerned that bipartite structures, such as the Joint Steering Committee on Hazardous Substances in the Workplace, which has already been created and is operating, may give government an out. They may say, "Well, you know, we supplied the coffee, we supplied the room, there they are, they're still talking, and we don't have to do anything, because we created these bipartite structures and the parties themselves are to blame if there's no law."

We regard this as wrong. At some point, government must have a responsibility to act, either because the parties themselves have been unable to reach an agreement or because they have just plain taken too long to reach an agreement, and bipartite structures in this area give government an out.

It is a kind of internal responsibility system writ large. It is internal responsibility on a macro scale, with some of the problems with IRS; namely, that the employers can ignore and create problems for the evolution and formulation of standards, or take it the other way, if you like, and labour can. Whichever way, there is delay and there is paralysis.

We give some examples of how this has already happened, in fact, where the government in this province has refused to act alone: on noise, on the health care industry and on the workplace hazardous materials information system regulations on physical agents and inventories. I would like to spend a minute on each of these points.

Noise: There was a regulation first approved in June 1981, after a period of public consultation, and it is now part of this joint steering committee process, but there is no target date yet, so it is, like, nine years later and we do not have a noise regulation.

The health care regulation: Unions have been lobbying for regulations since 1979. A joint committee was formed in 1983, but when its draft regulation was presented to the minister in February 1988, the Ontario Hospital Association withdrew its support and the government refused to act alone. We do not have a health care regulation.

WHMIS regulations on inventories and hazardous physical substances: We were told in October 1988 when WHMIS was proclaimed that we would have regulations in these areas under the WHMIS legislation by the end of 1989. I am now told by the government official who chaired those bipartite committees—I was told in November 1989, just a few months ago—that the process has basically collapsed over a dispute about trade secret exemptions and there is no progress now being made at all on either inventory or physical hazards regulations under the WHMIS legislation.

And hazardous substances themselves, the regulation of hazardous substances: Since 1979 we have got 12 designated substance regulations. The joint steering committee on hazardous substances has been operating since December 1987. We were told we were going to have some final recommendations from those committees

by the end of 1989 on the three topics, regulatory framework, health surveillance and exposure limits, and we have not seen any of those.

Some of the delay here is of necessity—it is brought on by scientific uncertainty and so forth, which is a reality—but the government must not wait for consensus to develop on issues where they may never develop. It must act by strictly controlling the introduction or continued use of substances where the adverse health effects have not been determined. Otherwise, action will only be taken after the damage has already been done and documented.

In some cases, of course, scientific uncertainty is not the problem at all, there is lots of reliable information around, but the government is waiting for consensus to develop between the workplace parties. This creates a situation, I submit, where employers, or workers, presumably, but I think it would more likely be employers, could essentially block improvements that they are opposed to, just like they can do on the joint health and safety committees, "We're just not interested in talking about it," and then the government says, "Well, then we're not going to have any law." This is not adequate. A government has more responsibility than that.

The other aspect of the new agency that concerns us is that the agency is an adjudicative body. We said in our original brief, and I think it is pretty straightforward and simple, that there should be a new administrative tribunal with powers to hear all the noncriminal aspects of occupational health and safety. The agency should not have any adjudicative powers.

We think this, but we want to make a point that a new administrative tribunal has to be independent of the parties, completely independent of the parties, if that is possible. Of course, these things are always hard to do, but the Ontario Labour Relations Board is, I think, the only model that we have at the moment.

Perhaps a bipartite structure would be adequate, but I can tell you that the structure that we have now is not doing the job. We did a bit of research this morning about the 115 appeals that have been determined so far by the director of appeals, since the beginning to date. We have all those decisions and 76, or 66 per cent, of those 115 appeals have been denied. It does not matter whether they come from the workers' or the employers' side, the appeals have been denied and the ministry's decision has been supported. A further 22, or 19 per cent, have been denied in part, with the result that only 17, or slightly under

15 per cent, of the appeals so far heard by the director of appeals have been allowed.

I will say in this forum that this suggests to us a very strong, not only appearance of bias, but actual bias in favour of the ministry—surprise, surprise. This is the ministry reviewing its own conduct. This is not an acceptable procedure and it is producing unacceptable results.

If I can skip, because I am running out of time, to the question of Bill 208 as the government proposes to rewrite it, I have a couple of quick points about, again, workers without unions in small workplaces.

We think that either the agency or the government has some responsibility to create infrastructure for those workers to elect their representatives. We do not think that employers should be able to nominate or appoint workers to any committee, either as a subcommittee on small business or bipartite organizations.

With respect to the right to refuse dangerous work, we never thought this "work activity" amendment was meant to apply to anything except discreet acts causing immediate harm, because the background paper released with Bill 208 made that fairly clear, but then the minister says in his October speech on second reading, "We will deal with the repetitive strain, cumulative trauma and stress problems by referring them to the joint health and safety committee."

This is fantasyland. The joint health and safety committees do not have any power to deal with serious health and safety problems because of their limited power to get any of their recommendations accepted, and furthermore, these committees do not exist in workplaces with fewer than 20 workers.

A government that was serious about ergonomics problems and repetitive strain problems for which there are ergonomic solutions would reform the law in two respects.

First of all, it would make a statement of purpose recognizing the need to promote and maintain the highest degree of physical, mental and social wellbeing of all workers and all occupations. This is important, because it would provide a clear legal basis for the application of ergonomic principles by which jobs are adapted to protect the physical and mental health of the workers doing them.

More to the point, it would get to work on a generic ergonomics regulation setting up standards for worker exposure to repetitive strain, stress and cumulative trauma.

I am told by some people more expert than I in this field that you do not necessarily need to have

a generic regulation, you could have one that goes sector by sector but you would address ergonomic problems in the various sectors. A government that was serious about those problems would move in that direction. It is interesting. This is an area where I think Ontario could in fact be a leader in North America, because there are not any North American jurisdictions now where there is an ergonomic regulation.

Committees in the construction sector: I think other people can deal with that more adequately than I, except to say we agree with the advisory council, there should not be any exemptions to the basic requirements of the act; namely, 20 workers. If that is what it is, you get a committee.

Health and safety policies in the small workplace: We say that the government is living again in a sort of a quaint view of the small workplace, and if you read this report of the advisory council, you will see that it repeatedly stresses the points that we make on page 23.

Small workplaces are places where: there is no health and safety committee; there is no union; it is probably a marginal business in the first place, creating an atmosphere of insecurities which will affect workers' ability to complain; the workforces are very likely immigrant; and there is a lower likelihood of government inspection. Every one of those things is mentioned in the small business task force report and suggests to us that these are small workplaces that deserve more, not less protection.

If I am almost out of my time, can I end by talking about the restrictions that the government is proposing to introduce now on the stop-work provision?

1500

Essentially, we are now qualifying this right out of existence. There are so many qualifications on it already in the legislation, in Bill 208, the introduction of further restrictions indicates that the government is essentially not interested in this kind of provision.

The minister talks about how this creates unilateral authority. Well, this is nonsense. Employers have had unilateral authority to shut down the workplace since time began, and if anything, a unilateral power on the worker side redresses the balance a bit, although not very much in the way it is written in Bill 208.

The other thing is, you know, workers are only going to be given the right to shut down the workplace when there is some immediate danger, so it is mixing apples and oranges to suggest that by giving the workers the right to shut down

immediately hazardous work you are somehow undermining the collaborative or consensual approach to health and safety. You can still have a collaborative consensual approach to health and safety in the committees on issues which do not involve an immediate risk of harm, but where you have got an immediate risk of harm, why not err on the side of caution and safety? So maybe this certified worker rep was wrong; it was not going to kill the worker. Occasionally we should be making mistakes which protect workers instead of the other way around.

Finally, a conundrum: If you take away that power to shut down unsafe work, and I say the amendments essentially would, then what is the point of having certified worker reps? They do not have any other powers. It is the only power they have under Bill 208. If you take that away, what is the point of having them? I suppose they have more training, but their effective powers in the workplace are essentially zero.

There was a very new study done of the Victoria law, which you are probably aware of. This Bill 208 is in some respects based on the law on health and safety in the state of Victoria in Australia. This guy called Mr Carson did a study looking at the outcome of work cessation disputes by types of premises. I put this on the last page of the brief, and it concludes, again, "Contrary to some pre-legislation predictions, resort to work cessation does not appear to have been capricious."

The table indicates that well over 50 per cent of the work cessations were upheld. These are cases where the employer disagrees with the work cessation. Presumably, there would be all kinds of situations where the employer would agree with work cessation and not call in the ministry or the equivalent of the ministry. But even where they call them in, over 50 per cent were upheld, and in fact probably more than that, because there is some doubt about the outcome in some of these cases. The power to refuse to do work now is not used capriciously or abused, so why would any additional power in that respect be abused?

I think those are my main submissions.

The Chair: Thank you, Mr Leitch. It is good to have what I think is the unique perspective of somebody from a health and safety clinic. I wish we had time for an exchange, because there are several areas, such as the bipartism plus the tripartism and the unorganized workers' conundrum, that would be nice to pursue with you, but we really must move on, so thank you very much for your presentation.

Mrs Marland: My question is a yes-no.

The Chair: Everybody has a question that may or may not be yes-no, so thank you very much, Mr Leitch. If we start that, there will be no end to it.

The next presentation of the afternoon is from the Canadian Franchise Association.

Mrs Marland: The question was one sentence.

The Chair: Yes, I have heard that story before, usually from Mr Wildman.

Ms Kostopoulos, we welcome you to the committee, you and your colleagues. Whoever is the spokesperson could introduce the others. The next 30 minutes are yours.

CANADIAN FRANCHISE ASSOCIATION

Mr Trebilcock: Good afternoon. My name is Arthur Trebilcock, of Goodman and Carr, and I am general counsel to the Canadian Franchise Association. Seated to my right is Cheryl Kostopoulos, with First Choice Haircutters Ltd, who is the vice-chairman of the board of directors of CFA, and on her right is my colleague from Goodman and Carr, Frank Zechner.

Ladies and gentlemen, our association is generally supportive of Bill 208. However, we have four specific concerns about that bill. We have prepared short written submissions for your review and I am going to ask Ms Kostopoulos, on behalf of our association, to tell you briefly what our association is all about and to speak to those four points. Thank you.

Ms Kostopoulos: Good afternoon. We are here on behalf of the Canadian Franchise Association, a national trade association of Canadian franchisers. While we have 181 franchiser members of our association, the total number of franchise units represented here is almost 12,000. Take, for instance, the company I work for. We are one franchise member of the CFA, but we have 120 operating salons in Ontario alone. So the group that we represent is extensive. In 1988 \$68 billion of retail sales were through franchised outlets, two thirds of retail taking place today. That is just a little bit of an explanation of who we are.

As Arthur suggested, the CFA certainly supports worker safety, but we do have some serious concerns re specific proposals contained in Bill 208. One is the removal of exemptions from the Occupational Health and Safety Act. Our main point is all businesses are not alike. In the retail service sector generally the customers and the workers share the same workplace. As you know, going through a mall in the Square

One Shopping Centre, the Eaton Centre, or wherever, as you approach a retail service business you enter the workplace and the customers and the workers share the same premises and there is a strong business incentive to maintain safe premises with or without the proposals being suggested.

Too, the terms of leases are very onerous in retail service businesses on maintaining health and safety standards in themselves. The landlord does not want to be sued by a customer or a worker being hurt in the workplace. I would like you just to look at that fact, that where a manufacturing plant can have a beautiful head office in the Toronto-Dominion tower and a plant operating somewhere outside of the borders of Toronto where safety is questionable, that is not the case in retail service businesses. That is my first point.

Also, as many of you may have read in the newspaper, there is a severe staffing shortage in retail service businesses today and employers, small business people, are doing all they can to make sure the customer and the employee are not hurt in any way, because you cannot replace workers the way you used to 10 years ago.

I suggest that these conditions alone monitor safety in retail service businesses. Therefore, we oppose the removal of the exemption for mandatory health and safety committees from the OHSA. If the exemptions must be deleted from the act itself, they should be preserved in the regulations.

My second point would be the qualification of committee members. Continuing communication between labour and management is encouraged through the current forms, and the CFA believes all committee members representing workers are not only adequately trained now in safety, but have appropriate knowledge and experience about the workplace. Our point is, not only do franchise and nonfranchise retail outlets use a high level of temporary employees—ie, students, seniors, parents who do not want to devote their time to a full-time job—the turnover in part-time employees is extremely high.

Our company alone has experienced a 200 per cent annual turnover in part-time employees and I believe, if you looked into the turnover in the retail service sector, you would find that is the way it is. Because of this, we are concerned when companies may be required to put up a safety committee with as few as six employees. What kind of representation is going to be there due to the fact that most people who work part-time not only do so because of the flexibility of hours, but

because they do not want a lot of responsibility for the ongoing requirements of the firm? So we are concerned about the number of employees and the part-time/full-time composition of a worker safety committee.

We feel that, due to these shortages and the reality of high turnover of part-time staff, a minimum of six months' experience should be a requirement, if this were to come into effect. A small, efficient committee better serves business and the worker today than a large, unqualified group. Again, my point is, bringing it down to a level of having to have a committee with six employees and then opening up to part-time employees, you are just not going to have the knowledge in the workplace, the knowledge of the equipment or the skilled staff to monitor the program effectively.

1510

Number three, and I suppose the one that concerns us very greatly on behalf of our members, is this stop-work authority. If the safety of the workplace is an issue, the OHSA already entitles a worker to refuse work and current provisions of the OHSA requires that there is agreement among several workers. I will not go into how that works because I am sure you have heard all about it today and we have suggested in our paper the proposal to delegate all authority to one certified member capable of arbitrarily calling for a work stoppage without any provisions for damages in the case of deliberate abuse is actually horrifying to the small business person.

You take a manufacturing plant. Say you have to close down one piece of equipment; you can still process other orders through there. But in the retail service sector, if a business is closed a small businessman today can be out of business in two or three weeks due to restricted cash flow and he can be in default of leases due to shutting down the entire business. I am suggesting that because of the nature of the business, since safety in the working environment again is monitored by the customer—obnoxious fumes in a retail outlet or a retail restaurant—the customer alone is going to bring a case against it and there is the risk of diminished returns.

We feel that if it is necessary to proceed with the establishment of a stop-work order for certified members, then you must increase the sanctions to deter abuse of authority and to give us some requirements of exactly how they should be trained and how long they should have been with the company. Please keep in mind that when you are addressing a piece of equipment, as I say,

it is a lot different from shutting down a retail store.

Representative workers on the board of the Workplace Health and Safety Agency: The Canadian Franchise Association consists almost exclusively of businesses with nonunionized labour. Therefore, it is assumed that nonunionized workers will be represented on the board proportionate to the nonunionized workers in the total Ontario workforce. I am sure you would agree it would seem inappropriate to have any worker representation on the board other than what is proportionate to the total Ontario workforce.

I am not going to take a lot of your time just in reiterating; please do not underestimate the cost of this program in the retail service sector. Whether you want to hear this or not, burden hours are already hurting industry. One might say that the additional cost can be passed on to the end user. As we were discussing this, I heard a certain person say: "That's all right, we'll pass this cost of more training, attending committee meetings and everything else...well, the retailer will just pass it on to the end user." But wait a minute. What is happening today is that our customers, with all the increasing costs of today, instead of getting their hair cut every six weeks will now start to push it off to eight weeks. You cut out one dinner a week and you may not buy that new blouse.

All I am saying is, why ask the retail service sector to increase the burden of wages today when it is not a necessity; when the pleasant and safe environment for the customer dictates. You walk into a Signor Angelo's or a First Choice Haircutters or any of these in the service sector, you can see what I mean. Just because of the cost of retail space, there are not any stockrooms any more. The cost of retail space is so high that everyone has his stock out on the floor with the customers. So I ask you just to take these things into consideration.

Do not remove the exemptions. If you cannot see your way clear not to do this, ensure certification applies to full-time or well-experienced employees. Please do not delegate stop-work authority to any one individual without penalty for abuse, and please ensure that representation of workers at the board level is proportionate to the Ontario workforce in union and nonunion capacities.

I believe I am right on time. Thank you very much on behalf of the Canadian Franchise Association for considering small business people in the retail service sector on this proposal.

Mrs Marland: I guess really what you are here saying this afternoon is that you do not need the legislation at all.

Ms Kostopoulos: Yes.

Mrs Marland: If the legislation were to go through, you are asking that the retail service sector be exempt.

Ms Kostopoulos: Yes.

Mrs Marland: I must say that your arguments are very persuasive. You have obviously given a lot of thought to the issues that pertain particularly to your clientele in your organization. I think it is hard to argue against any organization that is working constantly with the public. The fact is that the public risk is equal to the employee risk, and therefore it is not in anyone's interest to have any risk in that establishment, because the first time you have a bad accident in any of those franchised organizations, that is that organization's name down the drain, is it not?

Ms Kostopoulos: Absolutely. The public relations would be terrible.

Mrs Marland: You talked about how many organizations you might represent, and since small business is the largest employer in Ontario, have you any kind of ballpark figure as to numbers of employees that you might represent?

Ms Kostopoulos: We suggest in our paper here, approximately 100,000, but let us take for a fact that McDonald's has almost 200 restaurants in Ontario, and it averages 100 employees per location. I think 100,000 might be a bit conservative.

Mrs Marland: I think we had a representation from McDonald's, did we not?

Mr Trebilcock: In coming to the numbers that we have come to we have actually taken a look at the number of outlets that our members represent as put on their membership admission forms, and that was 11,800 and something. We guesstimated, on average, that there would probably be seven or eight employees per outlet, and that is where that 100,000 figure came from.

Mrs Marland: So, it could, in fact, be a lot more if you look at one McDonald's that works. Many shifts have many numbers.

Mr Wildman: I have really two questions. First, if I understand your presentation, essentially you are saying that it is in the interest of the retailer to ensure that there is a healthy and safe workplace, because if he or she does not, customers will not come. There will be a bad reputation and they will lose business. I can understand that argument, but would you not

agree that, to use the example you put forward, the experienced worker would have a better idea of what types of substances or fumes or whatever might be in the workplace and thus would have a better chance of protecting the customer instead of vice versa?

1520

Mr Trebilcock: Mr Wildman, perhaps I can answer that. Our submission is directed to the fact that retail should be exempt, as it is under the present legislation. The reason we perceive the Legislature so enacting is simply because the customers and the workers are in the same environment; as well, the employer is. Everyone has a very high incentive, therefore, to ensure that any potential hazard is dealt with. Our first submission merely goes to the fact that Bill 208 is proposing to remove that exemption from the act itself and to simply permit the Lieutenant Governor in Council, by regulation presumably, to exempt certain businesses.

We are merely asking that if the select committee supports that proposal of Bill 208, it makes a very strong recommendation to the Legislature that retail, hotels and so forth that are presently exempt be a part of those regulations.

Mr Wildman: I understand that. The other question, though, first, is that according to the bill as presented, workplaces with fewer than 20 employees are going to be treated differently anyway.

Mr Trebilcock: That is true, but they would still require a safety representative if they were six or more.

Mr Wildman: My other question is related to that. You talked about the potential for abuse by a certified worker with the right to shut down. Do you have evidence that individual workers who now have the right to refuse under the act have frivolously or irresponsibly abused their right to refuse? If you do not, then why would you think a better-trained worker with more responsibility would?

Mr Trebilcock: We have no such evidence, simply because we have not searched for that evidence, so we do not know whether or not it exists. But the fact that under the present legislation a worker is entitled to refuse to work if he merely believes that the work is unsafe is a very, very good protection for that worker. The next step, as you know, is for representatives from management and from the workforce to come and make their own determination. If they cannot agree, as you know, an inspector comes in from the ministry, but that can take some time.

Pending the ministry's inspector arriving on the scene, there is no requirement whatever for any worker to do that work. As I understand the present legislation, management is entitled to ask—

Mr Wildman: That is right.

Mr Trebilcock: —another worker to do the work, but, and very important, management must make full disclosure of the circumstances before asking that worker to take on that job, and properly so. In our view, to allow in the first instance one member of the local safety committee to shut down the project when there is an honest disagreement does not add materially to the safety factors that are already there. But if that person was not properly trained and negligently or in bad faith misused his power—if—then there would be a problem. That is all we are saying.

Mr Wildman: I would just like to point out that the ministry, employer organizations, particularly in the industrial sector, and organized labour, which have all appeared before the committee, have all agreed that the right to refuse has not been used frivolously in the last 10 years.

Mr Carrothers: I wanted to go back a bit. Did I understand correctly that the average number of employees in your members' establishments was around seven? Did I hear you say that?

Mr Trebilcock: That is our guess.

Ms Kostopoulos: That is a very conservative estimate.

Mr Carrothers: So it might be more. But, I guess, just going to a point Mr Wildman said, then most of your members would fall below the 20-employee-per-establishment threshold. I understand that this is working with franchises. Even though they may be operating under the same name, they look at the establishment to determine, so that all that is required in those establishments is some form of committee.

I just wondered if you could expand then on the cost discussion you were having. You were just having the question about somebody stopping work. Obviously that right to stop work would not exist in the workplaces that you represent because the certified worker would not be there. All that would be in existence is some form of committee to talk about safety things. I am wondering if you might sort of expand on why that is such a cost factor or why that would present such a problem.

Ms Kostopoulos: Speaking for our own company, why I feel this is such an issue is just the cost and burden of hours alone today in

training the average employee. Costs of wages have increased. In 1980, for instance, our company was paying 30 per cent of total sales per salon on wages; it is now up to 52 per cent with wages and benefits. And that is time off the floor to attend to training and technical courses, which is a requirement today. But I just do not see the point in spending more employee hours off the floor to discuss a nonissue.

Mr Carrothers: Well, maybe it would not take time. The committee would be there to discuss issues. Again, you are talking about the training. I thought that training was associated with the certified worker. The certified worker would not be in your workplace. What would be in place is a committee or some process to discuss problems.

I guess what concerns me as I listen to the presentations that we hear and as I try to determine where we can improve health and safety in the workplace, the one area that I see where there are problems that we do not really deal with is retail areas, offices, or another one, which are being brought into the law. These are now exempt. These seem to be areas where we have difficulties. It is not the big machinery problem, because that seems to be addressed, but it is a question of chemicals, perhaps cleaning solvents, those types of things. We need to look at that and look at the problems those may be causing because, indeed, there are difficulties that are showing themselves up. This whole question of the sick building that we hear talked about relates to the question of chemicals in the workplace. Right now, those workplaces are not covered, so the whole thinking, or at least the concern I have, is perhaps there needs to be some way to address those issues.

What this bill would put in place for the workplaces that you represent is a committee to discuss, and no more. I am wondering why that would be a burden when I hear other employers like McDonald's tell me how much they train their employees to be safe because, of course, that is a dollar-and-cents issue for them and they need them to be safe. I also heard a presentation which was very interesting to me at one of our hearings from one of the insurance people—Chubb Insurance, I think—about how they rate companies for their property and casualty insurance. They rate those companies for their property and casualty premiums based upon the extent to which they focus on health and safety in the workplace, and the more they focus on it the lower the premiums are. Because they feel that the workplace is a safer place, there is less

property damage and therefore less risk to the insurance.

So it seems that spending time, or at least the time that is necessary, to make a safe place is something you could well be doing anyway and that this is not adding an additional burden. I am wondering how, or if we put in place a mechanism that might allow the chemicals—you mentioned a hairdressing salon. There are certainly chemicals around there. There might be issues surrounding those chemicals, if not the ones the customers use, then perhaps the cleaning or other solvents. I am just trying to understand why that would be such an additional burden that you would make the point that it is going to be wasting time and costing excessive money.

Ms Kostopoulos: I will let Mr Trebilcock answer that.

Mr Trebilcock: I guess there are several answers that are possible. One thing you must not lose sight of is that many franchise systems in Canada today engage in what is called dual distribution. They have both company-owned outlets as well as franchised outlets. First Choice Haircutters is such a system. To the extent that any franchise system has company-owned outlets, if indeed the average is seven employees per outlet, very soon they are going to be in a position where there are about 50 and they are going to have to have a committee of four. Between, I think, 20 and 50 you still have to have a committee of two, and one of those committee members from management and one from the workforce have to be certified.

I think a second point is that many franchise systems have what are called "area franchisees," people who take more than one franchised outlet. There again, one can have a buildup of employees that organization which may well lead to a committee.

Ms Kostopoulos: Take those costs and multiply them by the number of man-hours; it becomes extensive. Also, in many of these cases—you talked about the environmental concern about certain buildings—keep in mind that the retail service sector is in leased premises and large malls, and the individual 1,000-square-foot businessman can do very little as far as the overall complexity of the mall is concerned. That is more driven by the landlord.

Mr Carrothers: No, I was thinking of specific things that would be used in the workplace. Because we seem to focus so much in our discussions on great big machines—

Ms Kostopoulos: I just cannot think of one thing in our company that—

Mr Carrothers: —we lose sight of an area where there seems to be a significant weakness in the system, and that is some of these minor problems with chemicals and so on that over the years—ergonomic problems and things, people's backs when they are cutting hair and so on.

Mr Dietsch: I am curious as to your comments with regard to training and the kinds of—as I understood, you have an average of seven, in that ballpark. What kind of turnover do you have out of that clientele?

Ms Kostopoulos: Clientele turnover?

Mr Dietsch: No, your employees. What kind of turnover?

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Ms Kostopoulos: I wish it was less, but we have experienced up to 200 per cent annually.

Mr Dietsch: So you would invariably go through a considerable amount of training as it goes, when those new employees come on staff. I guess I am caught in the same dilemma that Mr Carrothers is in trying to understand where the additional cost would come in. When McDonald's was before us, which is a large franchiser and goes through a tremendous amount of staff as well, they said that they incorporated a large portion of their safety training within their training on the job for their new employees. If you are going to be bringing new employees in and furthering their training to enhance their performance capability, why would an extra few minutes with respect to training for safety be of a major concern?

Ms Kostopoulos: I am going to ask Arthur to join in. But I do not see it as an extra couple of minutes. Number one, in the retail service sector, again because of business incentives, the premises are designed to make sure that it is very safe and you cannot fall over anything. The chemicals that we use, because of threat of legal suit over someone's hair, are designed—so 15 minutes in telling a new employee about safety measures is one thing; people constantly running back and forth downtown, wanting their travel expenses covered and to be recertified, is another issue.

Mr Dietsch: You see, what I am trying to understand is your very answer said that you go through a lot of this process already—

Ms Kostopoulos: Maybe 15 minutes.

Mr Dietsch: —and therefore, if you are doing it already, it will not be a problem to you.

Ms Kostopoulos: But is certification not a much—

Mr Dietsch: That does not seem to be what is required.

Mr Trebilcock: I think that is our point. Where the franchised organization has sufficient employees in it that a committee is necessary, then certification is also necessary. We do not know what the qualifications for certification are. The agency will be directed in that regard by regulation. We understand from published material that, typically, the training program that presently exists in the Sudbury area is representative, 150 hours per person to go through Sudbury's safety training program.

In those outlets where one would have two persons who had to be certified—that is, in outlets where you have fewer than 50 employees—then, there are 300 hours just to go through the certification program.

The Chair: I am sorry. We would like to continue this, but we really cannot. Do you have a quick, final question, Mr Mackenzie?

Mr Mackenzie: I had three, but I will settle for the final one. Ms Kostopoulos, I do not know whether you meant it or not, but I think you are the very first witness before this committee who has, in effect, at least for your own industry, called the safety and health issue a nonissue, and I find that a little bit difficult to accept. I am not sure that is exactly what you meant, but the figures in Ontario sure do not indicate the issue of safety and health is a nonissue; it is probably one of the hottest issues affecting working people right across the province.

You also say, in talking about the exemptions—this may be part of it—among those exempt businesses are, and I list three of them, “restaurants, hotels, motels and premises licensed under the Liquor Licence Act, none of which have historically had sufficient safety-related problems to justify the administrative and cost burdens of maintaining either a safety representative or a health and safety committee.” I would like to know if you are verifying that fact, because in at least two or three of those occupations I get an awful lot of injury cases into my office. And I suspect a study of the records would indicate that is not a factual statement.

Ms Kostopoulos: I apologize if I have offended you by saying “nonissue.” What I was referring to, as I mentioned over here, is that in the retail service sector—and that is all I can speak to—premises are designed and products are chosen, and ordered through head offices in

many cases, with safety being such a requirement. Again, it is customer-driven. In this particular sector I made that reference. I am sure and sympathize; none of us wants to see workers hurt or harassed or exposed to dangerous situations. Again, I apologize if I have offended anyone here, but I am sticking to the point that when the premises are customer-driven and the lease provisions are so strict—have you ever seen some of these leases by Olympia and York and Cadillac Fairview? There are so many requirements already there that I personally in our industry, and I have been with this industry for eight years now, have not seen a case so—

Mr Mackenzie: But you have in your brief outlined the various sectors, and those three caught my eye right off the bat. I am just wondering if you have anything to back up that particular comment.

Ms Kostopoulos: The thing I can back up is that I have not seen an incident of it, nor even in our discussions as a board of directors of the Canadian Franchise Association has worker safety or abuse of such been raised as an issue, and we are all about ethical franchising.

The Chair: I am sorry. I am going to have to call this to a halt because we have agreed on a 30-minute time limit for everyone. Thank you very much for your presentation.

Mr Trebilcock: Thank you for giving us your time.

The Chair: The next presentation is from the Transportation Safety Association of Ontario. Mr Melnyk is here, and Mr Boyle.

TRANSPORTATION SAFETY ASSOCIATION OF ONTARIO

Mr Melnyk: I am Harry Melnyk, general manager of the Transportation Safety Association of Ontario. Accompanying me today is Bill Boyle, the assistant general manager. I apologize for our president who happens to be a small businessman located in Sarnia and has a crisis on his hands today and is unable to be with us.

I would like to make this presentation on behalf of the transportation safety association. We would like to express our thanks first of all for the opportunity to comment on Bill 208.

Some of the concerns that we have today are not much different from those that we had earlier in the year when we had discussions with the assistant deputy minister, Tim Millard. At that time, we expressed concerns about the association's autonomy and whether we would be able to carry on with industry-specific programming in

lieu of the proposed changes as they related primarily to the agency's function.

We were told at that time that there would be no basic change in the manner in which individual associations function and that the agency would concern itself with overall policy. However, the functions and powers of the agency, as they appear in the legislation, clause 10(7)(1), are to "administer or oversee the operation of such safety and accident prevention associations as may be prescribed including the power to alter the rules of operation and change the organization of any association so prescribed." This clause leaves room for a very broad interpretation and leaves some concern with us.

The matter of equal management and labour representation on our board of directors is a concept we have partially implemented for the past two years. At present we have organized labour represented on our board of directors primarily from the transportation industry: the Teamsters' Union Local 938, the Canadian Brotherhood of Railway, Transport and General Workers and an appointment from the Ontario Federation of Labour, the Amalgamated Transit Union Canadian Council.

We recognize that we would have to increase labour representation to meet the legislative requirements, which we would be prepared to do. However, we have some problems in defining who that labour representation should be to fairly represent the industries involved. We also have to consider the group of unorganized labour and how it may be fairly represented on our board.

We foresee that as the agency evolves changes in direction may be forthcoming along industry sector lines, which may lead to an enlarging of our association's present scope to involve the total area of transportation. Our present basic programming is slanted towards the for-hire trucking industry and the motor coach and school bus industries. However, if all trucking and bus operations were included, taking into account the fleet operations of manufacturing, breweries, bakeries, dairies, retail stores, etc, as well as schedule 2 transportation operations, this would result in a significant change to our structure. Under these circumstances we could see the composition of our association board of directors, both labour and management, evolving as the agency's direction may also evolve.

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Our role is the promotion and conducting of educational programs in the area of occupational health and safety, but we cannot devoid our-

selves of the work environment in which the majority of our industries function; that is, the operation of vehicles on roadways and highways, not only in the province, but across the country and the United States. In this regard, we work with the Ministry of Transportation promoting safe driving, highway safety and conducting programs required by legislation—the Highway Traffic Act—to meet the various licensing requirements.

If the agency takes a sectoral approach, the role of transportation safety may lean more heavily into the area of highway or road safety, not only servicing the transportation segment of industry, but possibly some of the motoring public recognizing that off-the-job safety is in fact part of a good total safety program.

As an association we have some concerns as to the administration of Bill 208 and its application in the transportation industry.

An example is the workplace and committee structure. In the transportation industry, workplace definition is somewhat difficult to interpret. Drivers spend only a small portion of their workday at the employer's premises and for the most part of their working time they are operating on public streets or highways, operating under Ontario's Highway Traffic Act. While servicing the customers, drivers function in workplaces other than that of the employer. Transportation being a service industry, the worker and employer often have little or no control over offsite workplaces. In some cases, because of the competitive nature of the business, there is a tendency to accept conditions that are less than ideal rather than jeopardize the account. How meaningful can committee structure be under these circumstances, particularly when work sites are often other than those of the employer?

Another example of the workplace, in labour supply: The labour or driver supply industry often does not have a workplace other than an office facility from which they supply persons to function in the workplaces of others, where the worker performs duties under the direction and supervision of that particular workplace and not that of the employer. In many cases, the workers who are supplied from supply agencies are casual help, may not be employed on a regular or steady basis and may in fact change workplaces day to day. A meaningful safety committee would be difficult, if not impossible, under these circumstances.

The third one, and this is most pressing, I think, is federal operations as it relates to Bill 208. The concern that we have as an association

with the legislation under Bill 208, which will need to be clarified, is the application of the legislation to federal operations. In the transportation industries many of the companies are deemed to be a "federal work, undertaking or business," bringing them under the Canada Labour Code, and the provincial health and safety legislation does not apply. The Workers' Compensation Board, in setting the assessment rates for 1990, recognized this. For certain rate groups, specifically in our association's industries—trucking, flying operations, stevedoring—there was no charge included in the assessment rate for the funding of the Occupational Health and Safety Act under chapter 321, section 12, so it has already excluded that group.

The charge was also excluded for other rate groups that were deemed to be federal undertakings. The question then becomes, are all these industries deemed to be federal undertakings exempt from Bill 208 legislation, and particular the application of section 10c? Section 10c is the funding of the agency. If they are exempt under Bill 208, then where does the funding lie?

A different set of rules for federal and provincial operations, both operating in the competitive market, may affect the respective competitive ability. The bill provides for funding schedule 1 and schedule 2 employers, but many of the schedule 2 employers may be federal undertakings and therefore, again, exempt from the provisions of Bill 208 legislation.

If indeed these federal undertakings are deemed to be exempt, the cost of accidents and the numbers will still be part of the record of the workers' compensation figures, but provincial occupational health and safety may not apply.

Please find attached an association breakdown by firm size as of 31 December 1988 based on the Workers' Compensation Board statistical information by rate group or industry and the respective percentages, which I would like to review with you. If you would please refer to the size breakdown, you will find the various classifications of industries covered by the Transportation Safety Association. You will note the number of industries in total in the one to five, six to 20, 21 to 49 and 50 plus rate group.

You will also note, down at the bottom, that 80.8 per cent of the total membership of this association is one to five employees. We have the six to 20 group, which would require a health and safety representative, and they represent 12 per cent. The 21 to 49, which would require a two-man safety committee, is only 4.3 per cent,

and then the 50 plus is a four-man safety committee.

Let me caution you on the four man plus. In our records this would indicate a major carrier, but if a carrier in fact happens to have a multitude of terminals located across the province, each terminal becomes an individual workplace and the numbers of employees in each terminal could fluctuate. It could well be that one company could have a health and safety rep in one terminal, a two-man safety committee in another terminal and a four-man safety committee in a third terminal, so there is no uniformity to the numbers if each terminal is defined as an individual workplace.

Carrying that on through into the warehousing, the flying operations, the stevedoring, the building supply, the taxi, bus and ambulance service—once again, the bus service was not recognized by workers' compensation as being a federal undertaking, for what reasons I do not know, but they certainly are federal undertakings because they operate outside the jurisdiction of the province, including some school bus operations that perform charter work and fall into federal jurisdiction.

Returning now to the presentation, there is another factor that should be considered with these numbers, and again I alluded to it: the multiple terminals or locations in the province. The number of persons in each workplace may vary. Again, this will lead to duplication of committees in some firms and no committees in other locations. This may be an issue with operations of this nature as it relates to committees and the certification as provided in the legislation.

We trust that the information we have presented today will help guide you, or guide the committee, in future deliberations or discussions on the application of Bill 208 and help bring understanding of some of the concerns we have as they relate to the industries covered by this association.

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Mr Wiseman: On page 1, down towards the bottom, you mentioned management and labour. As we know, they are recommending 50 per cent from both. You mentioned the four unions that are represented now. You go on on the next page to say that you feel—we have heard that about two thirds of the workforce out there is nonunion—they should be represented on there as well. How many basically do you have now who are workers. What is the makeup? Is it, say, 10 to four? You said you have come along that line

yourself and then you give those indications at the bottom of the page. I just wonder if you could tell us how many you have versus management.

Mr Melnyk: On the board of directors?

Mr Wiseman: Yes.

Mr Melnyk: We have three members representing organized labour on our board of directors now, those three being the Teamsters, the Canadian Brotherhood of Railway, transport and General Workers and the Amalgamated Transit Union workers. When you look at the transportation industry, in all probability those three labour unions would cover most of the organized workforce.

The unorganized workforce: I guess I could relate to the school bus industry as a good example. We on our board of directors, rather than try to have individuals from organizations, try to get representation from groups. The representation that sits on our board of directors representing the school bus industry is also a representative of the School Bus Operators' Association of Ontario. Now, the school bus industry historically is nonunion and often very casual work. I heard someone earlier today in a presentation allude to housewives and people who have other jobs.

Mr Wiseman: I just wondered, on your board of directors, how many would there be from management, or from the school bus operators or whatever, and then how many would be from the three unions you mentioned? You have gone a long ways—you have started down that road of having 50-50 representation. Just give me an idea.

Mr Melnyk: About one third.

Mr Wiseman: Over on page 3—I know there are others who I want to ask—there is a paragraph and I will read the part that kind of upset me a little, "In some cases, because of the competitive nature of the business, there is a tendency to accept conditions that are less than ideal, rather than jeopardize the account." This is what I think we are trying to get around with the safety end. Can you give us an example of what happens there?

Mr Melnyk: Probably one of the best examples I can offer to that would be a delivery van arriving at a site, be it a construction or whatever site, where he has a reel of cable on the back of the van and it has to be unloaded to ground level. The person to whom the delivery is being made does not have a proper dock. What usually happens in real life, and we have to talk about real life, is that a couple of planks are put

up against the back of the van and the reel is taken to the back of the van and allowed to go down the two planks on to the ground. It is less than ideal, but we will accept it because the customer wants the product and that is the circumstance he has to deliver, so you accept it at that.

If you want to look at less than ideal, you might look at a delivery truck in downtown Toronto parking on the street and the driver going out with a number of cartons of garments or products into a retail store or into a laneway. Another one, an historic one, is deliveries being made to a restaurant where the coolers are located in a basement facility. You have already heard about the cost of floor space and what not. As a result of this, the driver who is making the delivery has to make the delivery into a basement location where everything is not according to Hoyle, but the delivery is no less made. Again, it is a service industry. I trust that will explain what I mean by less than ideal.

Mr Dietsch: I want to follow up on Mr Wiseman's questions. I am curious what kind of accident ratio you experience with the example you give us of the less than ideal condition.

Mr Melnyk: If we want to look at it through offsite-onsite, about 85 per cent of all the accidents occur away from employers' premises. Less than ideal? I can tell you that in the recent month of January, for example, we have seen a notable increase in the number of slip and fall accidents. Whenever there is a change in the elements, we see it in our industry because the workforce, being the driver, enters and exits the cab of the truck, enters and exits the back of the cargo area of the vehicle, and makes deliveries in conditions that are less than ideal. You can go on and say, "What can you do about it?" I guess you can sweep the snow away, you can salt the streets and you can do all the good things that are there. However, in the industry, those things do happen, and that is what I term less than ideal situations.

Mr Dietsch: I recognize that the situations you are outlining to the committee are in fact taking place in the real world out there, and there are many of us sitting around this table who understand that. I am particularly interested in what your safety association does in terms of the proper training, proper kinds of education you can give to the workforce you represent to lessen the kinds of things you are talking about.

Mr Melnyk: Our training at the moment is an awareness program. We would love to be able to say that we can catalogue everything and put it in a nice little package, but it is not that way. We

have an awareness program and our heavy concentration is working with the workers. We have a driver workforce that goes out on the street and is unsupervised during the best part of the day, and he becomes a supervisor unto himself. What we have to do is get a message out to him and advise him of the particular situations he may or may not encounter during the workday that will possibly involve him in a personal injury accident.

In our programs, as I said, 95 per cent of our work is done with that group. We do that work through safety meetings. We do it through posters. We do it through a drivers' newsletter. Our safety meetings are held on the employer's premises, maybe a half-hour safety meeting at the start of the workday or throughout the workday. Those programs are conducted with drivers and they are substantiated with presentations, pamphlets and audio-visual aids.

Mr Dietsch: Would you agree that in relationship to the proposals in terms of enhancing the joint partnership in the workplace, the proper training component would best be had by those individuals who represent the workers and who represent management, hands-on training by participants?

Mr Melnyk: Yes, I agree with that partially, but there is a fine line between whether you go into skills training then or safety education. It is a bit of both.

Mr Dietsch: It is not so much the delivery of the programs as much as it is the encompassment of the whole package.

Mr Melnyk: That is right.

Mr Wildman: Just one question, and it is along the lines of my colleague's: as you have said, a lot of the time the employees of the firms you represent are operating under the Ontario Highway Traffic Act, or in some cases federal legislation with regard to transportation. Under those acts I am sure, as an organization, you would not accept that firms that belong to your organization should operate vehicles that are not complying with the act; in other words, that were not properly maintained, did not have proper safety checks done to ensure that they were safe.

If that is the case, then I find it difficult to understand why you would accept that there should not be similar types of regulations on how the deliveries are going to take place, and protect the safety of your driver and the people he or she is delivering to. If we can do it with this kind of legislation, then perhaps that is what we should be doing. I have difficulty with your view that we

have to accept less than ideal situations. Even in the real world—those of us here who deal with an unreal world all the time perhaps are not being reasonable in saying that we should have an ideal situation or try to strive for it, but I really think we should.

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Mr Melnyk: Again, when you talk about operating under the provincial Highway Traffic Act or federal legislation, the federal legislation is parallel or almost parallel to the legislation we are talking about today. I do not think there is any doubt about the fact that the worker deserves that protection and should get it.

I guess the reason I have raised the federal issue is more to alert the committee to the fact that the funding aspect of it may be in jeopardy in view of the recent ruling. If one could go back and look at it, one could say that we could wash our hands of it and look at the federal people to step in with whatever policies they have, but they in turn are not doing this so there is a bit of a void between the two. Certainly, when we go out and deal with the industry, we do not distinguish between the two. We tell them that if it is less than ideal—I do not doubt for one minute that there are drivers who do phone back to their dispatch and say, "Look, there's no help to get this wheel off." It is no doubt carted back to the warehouse or wherever or a telephone call is made. So that avenue of right to refuse, if you want to call it as strong as that, is there, or the delivery just plain and simply is not made.

The Vice-Chair: If I could ask a follow-up question to Mr Wiseman's as to the board, the governing body of the Transportation Safety Association of Ontario, how many members are on it?

Mr Melnyk: Twenty-four.

The Vice-Chair: How many are labour representatives?

Mr Melnyk: Three, but those three, I would think, represent a significant part of the workforce by nature of their size and their representation.

The Vice-Chair: Mr Melnyk, I thank you for the presentation here today.

Mr Melnyk: Thank you.

Mr Wiseman: I wonder if we could have our researcher check this. I was surprised by the part they mentioned as coming under federal jurisdiction and being exempt from any occupational health and safety rules or regulations or legislation that we brought forward. I would have thought that if they were operating in Ontario,

they would have to operate under our sets of rules.

Interjection: Not if they are under the Canada Labour Code.

Mr Wiseman: Are they not? I never realized that.

Mr Wildman: In Elliot Lake the uranium mines are under the Canada Labour Code, because it is uranium. However, the Ontario Ministry of Labour enforces the Canada Labour Code for the feds.

Mr Wiseman: It might pay to have Lorraine check that so we know where we are at, what is exempt under the federal jurisdiction and what is not.

Mr Wildman: Certainly railroads would be under the Canada Labour Code.

Interjection: Interprovincial trucking, cable operation, Bell Canada, flying operations, stevedoring—all of those are federal. The Supreme Court of Canada ruling said the provincial jurisdiction has no authority.

The Vice-Chair: I would just point out that the microphones are not picking up any of this at the moment.

Mr Wildman: Because it is under federal jurisdiction.

The Vice-Chair: We could maybe check into it.

The next group to appear before us is the Ontario Road Builders' Association; Mr Blenkarn or Mr Ryan. Maybe you can identify yourself and your colleague.

ONTARIO ROAD BUILDERS' ASSOCIATION

Mr Blenkarn: My name is David Blenkarn. I am president of the Ontario Road Builders' Association. With me today is Arthur Ryan, the executive director of the Ontario Road Builders' Association.

The Vice-Chair: You have 30 minutes, which you can use as you see fit, either in presentation or allowing some time for questions.

Mr Blenkarn: Okay, that is great. I propose, I guess, to read our presentation, which you have a copy of, and then after that we can have questions.

The Ontario Road Builders' Association represents virtually all major firms involved in the construction and maintenance of Ontario's provincial highway system and municipal roads, comprising more than 170 companies in over 50 communities across Ontario. Our members

represent a large labour-intensive industry, working in an area that has a substantial impact on the economic viability of this province.

We welcome this opportunity to present our very serious concerns and trust our comments will be useful to the standing committee on resources development as it conducts its hearings on Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

In 1939, our association, concerned with worker safety, formed, with the approval of the Workmen's Compensation Board, the Ontario Highway Construction Safety Association. In subsequent years, this association merged with others to form the Construction Safety Association of Ontario. We have always maintained a deep, abiding interest in safety in this province.

Shortly after the introduction of Bill 208 in the Ontario Legislature in January 1989, we reviewed the proposed legislation and expressed our concerns to the Premier (Mr Peterson) as follows, and we will quote from the letter that was written to the Premier:

"We have reviewed this proposed legislation and are firmly opposed to the creation of a new occupational health and safety agency.

"Fully committed to preventing workplace injury and protecting workers' health and safety, we believe that the Construction Safety Association of Ontario has served our industry extremely well over the past years in achieving those aims. The substantial reduction in accident frequency in recent years confirms our view. We see absolutely no justification for creating and imposing a new bureaucracy which will simply add a new cost element to construction in the province.

"The proposed agency, composed of equal representation from labour and management but funded by employer-paid Workers' Compensation Board premiums and Treasury, would provide organized labour with a disproportionate influence over health and safety in the province.

"Bill 208 goes far beyond the spirit of improving safety on construction sites. It constitutes a counterproductive shift of power over construction site control, it infringes on the rights of nonunionized labour and can only lead to labour-management confrontation.

"We believe this legislation should be withdrawn and a direct participation of construction management sought when practical and effective approaches to safety improvements are deemed necessary."

That is the end of the letter.

On 12 October 1989, the Minister of Labour (Mr Phillips), on second reading of the bill, recommended refinements to enhance its workability. These changes in no way change our perception of the viability of this new agency, and we are still opposed in principle and see no justification for its implementation. Our opposition to the formation of this new agency should not be construed as a negative response to a government effort to protect health and safety in the workplace, but rather the simple fact that we see no need for further bureaucratic involvement in an area that is already working extremely well.

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The safety record speaks for this. Construction workplace health and safety has made enormous progress through the excellent work of the Construction Safety Association of Ontario and the joint management-labour approach to workplace health and safety, supported by most of the employers and by all construction associations in Ontario. This has resulted in significant improvements in key sectors: a 47 per cent reduction in accident frequency, a 58 per cent reduction in medical aid frequency, and a 64.5 per cent reduction in fatalities.

A further measure of the success of the roadbuilding segment of the industry is the fact that our workers' compensation premiums consistently decreased through the 1980s because of our industry's good safety record, and just-announced 1990 Workers' Compensation Board rates for the roadbuilding sector are 10 per cent lower than in 1989.

As an aside—and something that is not in this brief in writing—in August 1989 the Ministry of Labour itself published a report on construction safety in the province showing, that Ontario had the safest record not only in Canada, across this country, but in the world—something to be proud of.

Just in the last couple of weeks the Workers' Compensation Board has stated that the board's unfunded liability would be retired seven years earlier than the forecast because of the sharp drop in lost-time injuries, further proof of the efficiency of the present system.

The creation of the new agency is an unnecessary and counterproductive initiative that will raise the cost to employers, the province and the municipalities, add complexity to the construction management process and reduce the effectiveness of safety institutions. The proposed safety agency duplicates some of the work of the Construction Safety Association of Ontario and provides the freedom to increase costs at 10 per

cent a year, all costs to be borne by the construction employers. Worker certification training and time spent on worker safety duties must be fully paid by employers.

Counterproductive: The current Occupational Health and Safety Act permits an individual the right to refuse work that he or she considers to be dangerous. The proposed amendments to the act provide for a joint health and safety committee with at least one certified employer and employee representative and the right for a member of the committee to unilaterally stop work at the site.

The Minister of Labour has stated that the resources development committee should consider models proposed by his office as well as creative solutions from other parties at public hearings.

We agree with the minister's position that joint decision-making is best, that unacceptable work practices should end until rectified and that consistently poor performers should be punished and lose rights to operate within the same freedom as good performers.

Our association believes that a unilateral stop-work right as proposed is unnecessary, damaging, potentially confrontational and does not necessarily improve worker safety. Management obviously already has not only the right but the accountability to stop work. As workers already have the right to refuse unsafe work, the cessation of all work at a work site is completely unnecessary. The current right, if properly exercised, effectively protects workers' safety. We are concerned that a worker stop-work provision would not support but undermine the co-operative atmosphere developed to this point in our industry.

Opposed as we are to the whole concept of an additional agency, which seems to us to serve no useful purpose, we do support any realistic and reasonable efforts to improve workplace safety.

Conclusion: We hold to the following basic tenets, which through reform of the current act could achieve the goals of occupational health and safety in the province: (1) Increase the amount and effectiveness of safety and health education for all parties involved in the construction process; (2) enlist the endeavours of labour, management and government to improve health and safety in the workplace through co-operative activities such as joint health and safety committees; (3) reward companies that achieve improved safety results and penalize those with poor performance, and (4) establish balanced and

reasonable occupational health and safety laws and regulations to enforce them.

Mr Wildman: I have two questions. First, on page 4 you gave us some percentages. Could you provide the committee, if not now at a later date, with the actual numbers of accident frequency, medical aid frequency and reduction in fatalities?

Mr Blenkarn: We can provide that at a later date. We do not have that with us.

Mr Wildman: Okay, fine. Thank you.

The other question relates to stop-work. I should preface this by saying that most of the presentations made by the ministry, employer groups and organized labour have agreed that the individual stop-work right has not been frivolously used. I use that preface. Keeping that in mind, do you accept the concept that if an individual worker exercises his or her right to refuse because he or she believes that he or she is in danger or fellow workers are in danger, management should not be able to request some other worker to carry out that task until the matter has been resolved?

Mr Blenkarn: The matter has been resolved?

Mr Wildman: In other words, until it has been shown that it is safe, or if it is not safe, the situation or the condition has been rectified.

Mr Blenkarn: I do not quite understand.

Mr Wildman: If I refuse to work because I think the condition is unsafe, would you accept that my foreman should not be able then to go to my colleague and say, "Wildman has refused to do this job because he thinks it is unsafe for these reasons. Would you be prepared to do it?"

Mr Blenkarn: What is wrong with that?

Mr Wildman: In other words, you think that is okay.

Mr Blenkarn: Hold on just a second. Obviously it has to be investigated by the foreman, and if he still firmly believes that it is a safe condition and he goes to somebody else and says, "What do you think?" he is getting another opinion. If that guy says, "Hell, I'll do that," what is wrong with that?

Mr Wildman: In response to the question, that is exactly why we need certified workers who would be able to judge the situation and make a decision.

Mr Blenkarn: Surely to God, the guy who is running the job should have—

Mr Ryan: If there is an unsafe condition, there is no question the job should be shut down. What we are questioning is the unilateral right of one worker to say, "This job is unsafe, and because I

say it's unsafe, the job will automatically shut down." There is no question the industry agrees that if a worker feels a job is unsafe and he feels it should be shut down, obviously he should go to the management group or the committee and then the committee will make the assessment. That is all we are objecting to: the unilateral right of one person to say, "The job is unsafe; shut the job down. Then we will talk later."

1620

Mr Wildman: I fully understand your position. What I was asking is, during the period when he has gone to the committee and it is trying to determine whether that situation is safe, should the foreman be able to ask a fellow worker to perform that task?

Mr Ryan: No, we are not saying that in any way, shape or form. We are not saying, "If this guy said it's unsafe, we will ask him; and if he said it is not safe, we will ask him to work." That would not be the approach, obviously.

Mr Wildman: No, but let's say this guy says: "Oh, I think it's safe. I'll go do the job."

Mr Ryan: At that point, once it goes to a structured committee at the job site where management is involved, then a decision is made at that level.

Mr Blenkarn: I think you are talking hypothetical situations and it is very difficult to discuss a situation unless you bring out a real one.

Mr Wildman: I agree that it is difficult to deal with hypothetical situations, except that I do not think occupational health and safety—

Mr Blenkarn: It depends on the reason that chap thinks it is an unsafe condition. Maybe it is and maybe it is not.

Mr Wildman: Sure.

Mr Blenkarn: It can be frivolous. What we are trying to avoid is frivolous.

Mr Wiseman: On page 5 you set out some of the reasonings why you feel the way you do and you say, "The proposed safety agency duplicates some of the work of the CSAO and provides the freedom to increase costs at 10 per cent per year, all costs to be borne by construction employers." We never heard of that 10 per cent figure; at least, I do not think so. We realize there would be some cost, but is that just a shot in the dark at 10 per cent or is it something that you have that would help us?

Mr Ryan: The structure of the agency, as it is announced, is giving it the availability to increase costs up to 10 per cent through its

normal progression as it goes through the system. We are saying that that is fine, and obviously it is not a status quo in terms of the cost of that agency and there will be increases, but the point we are making is that all those increases will be absorbed by the employer.

Mr Wiseman: But they would not necessarily be 10 per cent.

Mr Ryan: No, no.

Mr Wiseman: That is just a guess.

Mr Ryan: Anything over 10 per cent will obviously have to be reviewed by the government in total, perhaps. But our concern generally is the fact that all of those costs, both the costs of the agency itself plus the cost of the present CSAO, which we were instrumental in being part of forming, are borne by the employer. One of the main thrusts of our submission is the fact that management has both the accountability and responsibility and it also absorbs all the costs. This agency is tending to give the so-called employee lots of responsibility with no accountability and no sharing of the costs. You cannot have it all ways.

The Workers' Compensation Board is, I am sure, a world leader in terms of what the employer contributes to this workers' compensation fund right now in Ontario. This agency is going to increase those costs because that will be funded by the workers' compensation again. It is an ongoing situation that is just building up costs and bureaucracy and, as we tried to point out, the construction industry in Ontario has a very safe record. It is an improving record. Even the Ministry of Labour can see it is the best in the world; it is best managed. The safety association is extremely well run, and all of a sudden we are thrown into something that is—

Mr Wiseman: You mentioned the unfunded liability part that we were talking about under Bill 162. I, for one, thought that probably in my lifetime we would not see that paid off. You mention in your brief that it would take seven years. Is that just for your segment?

Mr Ryan: No. That is the overall unfunded liability. That was just announced, actually; it was in the paper two days ago.

Mr Wiseman: That is really good, because I had thought in the back of my mind that it may not be completely paid off in many of our lifetimes.

The Chair: We will see, Mr Wiseman.

Mr Wiseman: Speaking for myself. The rest of you are much younger.

The Chair: No, I meant that we will see if it is done in seven years.

Mr Dietsch: I am interested in your figures on page 4 of your brief where you indicate a 47 per cent reduction in accident frequency. Where do you get those figures from?

Mr Ryan: This is from an analysis that the Council of Ontario Construction Associations has done for the construction industry from statistics that we have gotten from the Ministry of Labour and the Workers' Compensation Board. I do not have them here, but as Mr Wildman asked, we will certainly provide the actual figures themselves on that basis.

Mr Dietsch: Okay. I do not remember who exactly presented it because we have heard a number of presentations, but my understanding was that there was a fairly substantial increase in accidents.

Mr Ryan: I will give you specific figures right now. These figures, the 47 per cent, 58 per cent and 64 per cent, are over a 22-year period, since 1965 or 1967. That is over 22 years. The current figures—I will give you some specific—

Mr Dietsch: From 1967.

Mr Ryan: Yes.

Mr Dietsch: Why did you not go back to 1960? I am being facetious, of course.

Mr Ryan: No, but there is a trend that graphs. There are industry trends that have been published by the various ministries, as I say, and they have taken that 22-year period, so we have just picked those up, but they are genuine figures.

Mr Dietsch: I believe the individual, I cannot remember who it was, but as I recall it was during the 1980s. There were somewhere in the neighbourhood of 12,000 accidents in 1983 and in the neighbourhood of over 17,000 accidents in 1988, and that certainly is not that kind of a reduction. I would be interested in seeing the figures broken down on a year-by-year basis.

Mr Ryan: We will certainly do that. The other thing I would just like to point out, though, which is not included in the brief is that we have some actual figures just released in terms of fatalities and lost-time injuries. In terms of fatalities in our industry, in 1990 they were down 10 per cent.

Interjection:

Mr Ryan: In 1990, yes, from 1989 to 1990 there were—they are not good figures to quote, because there are people's necks involved, but there was a 10 per cent reduction.

Interjection: From 39 to 35.

Mr Ryan: From 39 to 35.

Mr Dietsch: That is still a lot of fatalities.

Mr Blenkarn: No question, but the trend is going down.

Mr Dietsch: But does not the trend go up and down?

Mr Ryan: No, I do not believe so. In 1986, 40; 42 in 1987; 39 and 35.

Mr Dietsch: You had 40 in 1986 and you had 27 in 1985, so I think, you know—I just was curious where they come from, so I would like to see the year-by-year breakdown.

Mr Mackenzie: Are your company's operations largely unionized in road construction or nonunion?

Mr Blenkarn: I would say probably about 50-50, yes. Obviously, a lot of our firms in the urban areas are unionized and the nonurban areas basically are nonunionized.

Mr Mackenzie: How many members are there on the board of the Construction Safety Association of Ontario?

Mr Ryan: Just off the top of my head, I would say probably three.

Mr Mackenzie: The board of directors or the governing body?

Mr Ryan: Yes. I think—I should not quote that. It is one to three, I suppose. I may be wrong.

Mr Blenkarn: Our members?

Mr Mackenzie: No, no. I am talking about the total board.

Mr Ryan: On the board itself.

Mr Blenkarn: The total board? There are more than three members.

Mr Mackenzie: I understood it was about 100 and may be changing.

Mr Ryan: There are 100 directors on the board of the Canadian Construction Safety Association, yes. Are you asking me how many of our members are on that?

Mr Mackenzie: Just how many are on the board totally, and how many are union members on that board?

Mr Ryan: Of the construction safety association?

Mr Mackenzie: Yes.

Mr Ryan: I do not know. I have no idea.

Mr Mackenzie: Would it be 13?

Mr Ryan: Do you mean 13 out of 100?

Mr Mackenzie: Yes.

Mr Ryan: It could be, yes. There is at this point a small labour representation on the CSAO board, to my understanding, yes.

Mr Mackenzie: Does this bother you that you come through with a brief that is certainly negative in terms of Bill 208 and the need for it, almost an "If it ain't broke, don't fix it" sort of an argument that you are presenting for us—

Mr Ryan: That is true.

Mr Mackenzie: —and indicate how strongly you have lobbied the Premier of the province? Whether you agree with the new bill or not, most of the issues that you are lobbying for are issues that are now in the new changes that the minister wants to make.

Yet I have not yet heard a workers' association, a building trades group or the Ontario council that has been before us that agrees with the position you are taking. I am just wondering if there is not a problem when your group is so totally out of touch with your workers, at least that portion that is organized; I cannot speak for the unorganized group.

Mr Blenkarn: No, you cannot.

Mr Mackenzie: I just wonder how you can be so positive about how this is absolutely not necessary when it is a totally opposite argument coming from the workers, and in most cases they are the people who are dying when there are accidents on the construction sites.

Mr Ryan: All we can say to that is that that is our perception of this. We believe, and the ministry confirms it, that the safety record in Ontario construction is the best in the world. Everything is a motherhood issue, you know, you can have 100 per cent employment, but the facts of life are that you can only do the best you can, and right now this province has done the best in the world. That is all we are saying, that it cannot get much better than that.

When you ask about the labour representation on the CSAO of 13 on a board of 100, I am not familiar with the CSAO, so I am not part of that myself, I am talking about the road-building industry, but I do know that that 100 member—

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Mr Mackenzie: Your safety organization really merged with the CSAO, according to your brief.

Mr Blenkarn: That is right, away back.

Mr Ryan: We sort of formed it, we did not merge with it. We were instrumental in having that association formed, which was funded by the road-building industry, plus other general contractors, at that time, back in the 1930s.

In terms of the success of that association, that is all we are saying, that that association is run

very well being managed by the employer, and it has done an excellent job.

There is no question. If you were to say to me, "There are 35 deaths, it is 39 to 35," obviously we would like it to be zero. But the facts of life are that with the sheer number of people working out there, there are going to be deaths, and all we can say to you is that, relatively speaking, in terms of the world, it is the best there is.

Mr Mackenzie: Obviously I am coming from a little different position, but it just strikes me that if I was a management organization such as yours, making a presentation as strong as you have against this bill, and outlining the representations you made to the Premier of the province as well, I would want to know that I had some support from the workers who are working on those jobs as well, and not have them totally opposed, which has certainly been the indication in briefs before this committee so far, to the position that you have taken so strongly here. It does seem to me that that in itself is a contradiction and says there are some serious problems there.

Mr Ryan: That is part of the confrontational aspect of the whole situation; there is no question about that. I am sure that if the—

Mr Blenkarn: We are also representing the employers. We are not representing the labour. We are representing the employers of the labour.

Mr Mackenzie: The labourers who pay the price, in most cases.

Mr Blenkarn: If they get injured, that is quite true, but the employers are the ones that are paying the price of what they perceive to be an increased bureaucracy that is not going to help anything. We believe that it is just going to be more bureaucracy and it is going to make it harder and harder and harder to cope.

Mr Mackenzie: So really, you want to pay less but with no guarantee that there would be that much more input from workers?

Mr Blenkarn: No, no. We do not mind paying more, we just like to put the more money to proper use, not to a bureaucracy that produces nothing.

Mr Mackenzie: Fine.

The Chair: Mr Blenkarn, Mr Ryan, thank you very much for providing us with an interesting exchange.

The next presentation is from the Ontario Provincial Council of Carpenters, United Brotherhood of Carpenters and Joiners of America. Gentlemen, we welcome you to the committee this afternoon and we look forward to your

presentation. If you will introduce yourselves, the next 30 minutes are yours.

ONTARIO PROVINCIAL COUNCIL OF CARPENTERS, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

Mr Begg: My name is Quinton Begg. I am the president of the Ontario Provincial Council of Carpenters.

Mr Black: I am Bryon Black, secretary-treasurer of the Ontario provincial council.

Mr McKee: My name is David McKee. I am counsel for the Ontario provincial council.

Mr Cartwright: My name is John Cartwright. I am vice-president of the Ontario provincial council and I am also here on behalf of the United Brotherhood of Carpenters and Joiners of America, Local 27, which will be making a supplementary brief.

Mr Black: We are pleased to be able to make our representations to you today. We have submitted a written brief to you, and since I am sure you will read and consider it, I will not take you through it point by point. What I would like to do is tell you about what we, as carpenters and millwrights working in the construction industry, see as the most important issues for us in this bill.

First, let me tell you who we are. The various locals of the carpenters' union represent over 24,000 employees working in Ontario. We represent over 17,500 carpenters and 2,500 millwrights employed in the construction industry and over 4,000 employees in manufacturing industries.

Our carpenter members are involved in every phase of building and construction, from the construction of hoarding around the site, site layout, concrete formwork, temporary job shacks and offices, scaffolding and safety work necessary on every job site, house framing, roofing, interior partition walls, drywall, doors, baseboards and window trim and resilient floor laying. It is fair to say that the carpenters are present on virtually every job site from the beginning to the end of each job.

Our millwright members install and align machinery in every type of manufacturing process from steel mills and foundries to printing and food processing plants. Millwrights are present in large numbers for the construction and retubing of nuclear reactors at Ontario Hydro nuclear facilities. We are there for the initial construction or extension of these plants, for the fast-paced repair and retrofit operations during shutdown, and we are involved in ongoing

maintenance and repair while the plant is in full operation around us.

Our industrial members manufacture wide varieties of products ranging from major building components and furniture down to picture frames and vehicle fixtures. As such, these members are exposed to every conceivable hazard on construction job sites.

Our carpenter members work on the 50th floor of office towers in Toronto where there is little more than the open winter sky above them. We work in the middle of a dozen other trades doing their work around us. We build the scaffolds that we and other trades stand on. We work with gypsum dust of drywall panels. We weld our own drywall studs and ceiling system components. We lay resilient floor and carpet with every adhesive compound in the industry.

Millwright workers work with complex machinery weighing many tons, in the midst of operating plants and at the core of nuclear reactors. In manufacturing, our members work with an unlimited variety of preservatives, cleaning compounds, adhesives, glues and paints. Our members are exposed to virtually every type of work-related injury and industrial disease to be found in construction or manufacturing in Ontario.

As a union composed primarily of construction workers, we are frankly offended by attempts to exclude construction workers from one of the most important sections of Bill 208. The act at present does not require any joint health and safety committees in the construction industry. Bill 208 proposes to apply this provision to very few employers. Proposed amendments increasing the exemption level contained in subsection 8(1) to a constructor employing at least 50 workers and at work on a project at which work is expected to last more than six months would make the section inapplicable to the great majority of construction projects.

We have no idea why the construction industry has been exempt. Certainly it is an industry which is responsible for a large number of injuries and deaths each year. The lack of permanence of any job site is part of the reality of the industry. Our members in our union have adapted to that fact, and there is no reason why the act cannot do so as well.

The Occupational Health and Safety Act is about safety, not convenience. We are no less likely to be injured on a small job than a large one. The statistics contained in the Provincial Building and Construction Trades Council of Ontario brief indicate 10 times the number of

WCB occurrences on low-rise residential projects over the larger and longer-lasting commercial high-rise projects. The need for safety is on the small, short-term projects.

We would also note that the 1988 lost-time injury summary contained in the council brief indicates that persons engaged in carpentry work were involved in over 20 per cent of those claims. We suggest that even if it were possible to extract information from those files, there would be no lower accident rate on jobs lasting less than or more than 3, 6 or 12 months than those lasting more. There is simply no excuse for continuing to disenfranchise construction members from this crucial section of the act.

Membership in joint health and safety committees: Bill 208 takes what, in our view, is the correct approach to membership on these committees; that is, that they be composed of equal numbers of management and labour representatives. Labour's role as an equal partner on joint health and safety committees must be recognized.

However, subsection 8(5f) requires clarification. While unions will choose the members of the committee, we must also be able to have the same control over ensuring that one member is certified. We are quite capable of following this simple requirement and do not require a contractor to do this for us.

The brief of the Council of Ontario Construction Associations calls for joint health and safety committees subject to employer control, at least for small firms. We do agree with the COCA that the goal of a joint committee, ie, safety, should be clear and shared by all parties. This goal will not be achieved if the primary goal in putting together a joint committee is to reduce potential conflict among the members. If labour as a group is to be an equal partner in safety, then it must be able to meet with management as an independent and equal partner.

However, the effect of subsections 8(5a) through (5e) creates a double standard with respect to employer and worker representatives. Worker representatives must come from the workplace while employer representatives need not. If committees are to promote job site or workplace responsibility, all participants should come from the workplace. Only then will all members have direct knowledge of the hazards and potential hazards on any site.

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Work of the joint health and safety committee, inspections: The proposal contained in subsections 8(8a) through (8f) is clearly an inadequate

response to the need for preventive inspections, particularly on construction sites. The effect of these sections is to limit the inspection to partial inspections once a month and entire workplace inspections once a year.

The majority of the industrial shops where the carpenters union represents employees can easily be inspected in their entirety once a month. There is no valid reason to limit the potential for committees to inform themselves of all potential hazards and to deal with such situations before injury or accidents occur.

These proposals are also totally unresponsive to the needs of a construction site. Very few projects last more than one year, and by the very nature of construction, a construction project is a very different job at the end of the month from what it was at the beginning of the month. The need for minimum inspections of the entire job site, or more, if the scope of the project requires it, is evident to us and should be included in the act.

Let's face it, the ministry does not have the staff or the resources to police every job. While inspections by the ministry should certainly be increased, particularly on nonunion jobs, it is in the end the persons on the job site who must be able to effectively monitor the environment in which they work.

Our other major area of concern is the right to stop work by a certified member of a committee. This is an important step forward contained in Bill 208, and one we support. It has been attacked by many people and groups, particularly the Council of Ontario Construction Associations.

Trades committees: Carpenters and millwrights are skilled craftspeople. We go through a four-year apprenticeship training to learn our craft and to learn, among other things, the safest way to practice our trade. There is a great reservoir of safety knowledge and knowhow among carpenters on the job site.

On the other hand, we are not electricians, plumbers or bricklayers. We do not think that we are likely to recognize on our own all dangers or to properly evaluate a complaint by a member of another trade of what he or she believes to be unsafe work. Similarly, we do not believe an electrician, skilled though he or she may be at that trade, is likely to understand the complaint of a resilient floor layer about a new and suspicious type of adhesive.

It is imperative, in our view, that certified worker members be assisted by trades committees. We suggest, however, that trades commit-

tees be set up by site rather than by employer. On a small site, there would be no difference. On a large site, such a committee should be drawn from the entire project, since typically specialty subtrade employers will have only one or two trades in their employ.

The fundamental approach to health and safety legislation: Nobody needs to tell carpenters about the need for safety. Employers may see it in terms of lowering costs associated with accidents, workers' compensation assessments and other claims. COCA may see it in terms of comparative graphs and figures of competitive prices to consumers and reasonable returns to owners and investors. We do not.

We are the ones who pay for unsafe, unhealthy practice. We pay with our bodies and our limbs and our lives. We pay with lost wages, with the loss of ability to work in our trade and with the loss of livelihood. Statistics do not get killed or injured, workers do. As we are the ones who pay for unsafe work practices, we are the ones who have the moral right and duty to protect ourselves to ensure that our workplaces are safe and free from hazard.

The Occupational Health and Safety Act and the proposals contained in Bill 208 recognize that moral right and go part of the way to translating it into a legal right, but such legislation can only be of any value if it recognizes that carpenters, like other workers, bear the greatest burden and therefore the greatest responsibility for safety.

A brief presented to you by COCA argues repeatedly for reduced or negligible worker input into the health and safety process. For example, with regard to the right of a certified member to stop work on a job site, the COCA brief states,

"COCA believes that a unilateral stop-work right, as proposed, is unnecessary, damaging, creates potential for manipulation by unscrupulous workers and does not necessarily improve worker safety."

Management obviously already has not only the right but the accountability to stop work. Certainly management has for centuries had the right to stop work. That right has not prevented thousands of deaths and injuries from occurring. That right is obviously not enough.

To suggest that any worker input into safety is ill-informed, unhelpful and tainted by ulterior and unscrupulous motives is to reveal the fundamental reality at any workplace or job site. Employers do not set the priority on safety that workers do, and a great many of them do not trust or place any value on worker input. The COCA brief criticizes what it calls the confrontational

nature of Bill 208. To the extent that the act is so, this is only a reflection on the workplace reality with respect to safety issues.

Two of the three principles emanating from COCA relate to its members' profitability. This is hardly surprising, but when health and safety becomes a cost-benefit analysis, with costs borne by workers and benefits flowing to employers, there is inevitably a difference in our ultimate interests.

We do want to co-operate with employers to ensure the greatest possible safety at all workplaces, but we must be able to identify and ensure our own interests in doing so. It is therefore imperative that the underlying philosophy of all health and safety legislation be that workers have equal and independent control over safety issues on the job site.

Statistics presented in the COCA brief do indeed look impressive, and we agree, though in a very different way, with COCA that the statistical change is a result of the workers' compensation experience rating system enforced since 1984.

It is important, however, to look at what these statistics are. They are reported incidents of accident and injury. Of course, employers want to keep their experience rating low, it is in their economic interest, but what we have seen since 1984 is an increase in the practice of carpenters and millwrights, and presumably members of other trades, being sent home and kept on full salary by their employers. The worker is content until years later when he comes to his union over a serious injury and discovers he has no documented history of injury and the employers' experience rating stays low.

True, statistics are changing, but we do not draw from that fact the conclusion that the employers are more safety-minded. What we do have to go on is our own experience using the mandatory provisions of the Occupational Health and Safety Act, including the information and training provided by WHMIS requirements.

We have been able to have a more meaningful say in the creation of safe workplaces. Not all employers are resistant to these initiatives. Some are commendably co-operative, but the initiative comes from carpenters and union representatives on the job. It is because there are mandatory provisions of the act that can be utilized by our members and because the act does put legal rights in the hands of workers that we have been able to create safer workplaces.

One recent example of how employers are responding to the Occupational Health and

Safety Act is the recent amendments with respect to WHMIS training. This was an advance that the carpenters' union believed was very important. Employers reacted, however, by almost totally ignoring the amendments.

In some areas, such as Toronto, employers co-operated with the union in ensuring that employees were trained by sending them to special WHMIS classes. The training was, however, arranged and conducted by the union itself. Costs were shared. In other areas of the province, employers refused to have anything to do with WHMIS training and it was the carpenters' union that bore the entire cost and effort of arranging for training.

Interestingly, employers now frequently specify when calling a hiring hall that they want only employees who are WHMIS trained. Employers recognize their statutory obligation, but it is the union that had the vital interest and has done the real work of training. If the minister is interested in fostering a partnership between labour and management in Ontario, we suggest that he take a close look at where the real initiative has come from to provide the minimum information needed by workers to work safely.

The right to stop work: Section 23a of Bill 208 is a step in the right direction. The right of a certified member to stop work is a recognition of the rights and duties of workers to take responsibility for safety on any job site. It recognizes the need to give the certified worker member the right to act to prevent injury or death. Such a right is, in large measure, the answer to the problem inherent in the right to refuse.

Naturally enough, many employees will respond to a fear of employer disapproval. The fear is not to be scoffed at. It is the very reason why we choose careful, conscientious and forthright persons to be stewards on the job sites. If a certified member can, in effect, refuse work on behalf of all persons who might be assigned the work, the fear of this real or imagined threat of reprisal is eliminated.

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The minister has suggested that this right be removed from the bill on the grounds that it might undermine the partnership concept he wishes to instil under the act.

As is obvious from the COCA brief, partnership to some employers means control by employers. The Occupational Health and Safety Act gave recognition in 1978 to the legitimacy of conflict between a worker and an employer over safety issues by giving the individual worker the right to refuse. Of course, management can

always stop work if it feels an unsafe situation prevails. What is needed is a worker's right to stop the work, even in the face of management disagreement, if a real health or safety nature is perceived.

If this section is removed from Bill 208, it will signal an end to any concept of partnership between management and labour. It will signal an adoption by the minister of the attitude of COCA: that workers are ill-informed, motivated by malice and ulterior motives and simply not to be trusted. Trust is a two-way street.

The alternative proposals suggested are not really alternatives. The minister has suggested distinguishing between good and bad employers on the basis of workers' compensation experience ratings. This of course does not address, and will indeed exacerbate, the underreporting problem I have referred to.

Further, it implies that all accidents and industrial illnesses are the result of someone's fault. Accidents happen on the construction sites of the most conscientious and safety-minded employers, through neglect, misinformation or miscommunication. It is of little consequence to the family of a worker killed on the job that his or her employer was considered to be a good employer.

COCA has proposed a "right to immediate conference" with the employer representative and a Ministry of Labour inspector. Of course, that is what is proposed in subsection 23a(5) of Bill 208.

The crucial issue is whether or not the work will be done while waiting for the arrival of the inspector. Once again, the act in this section is dealing with the issue not of overall co-operation and partnership but with what happens when the partners disagree.

Where there is a risk to health and safety, we support the aim of Bill 208 to come down on the side of safety at the request of those who will suffer the direct consequences of any harm. The fears conjured up by the various employer groups about endless work stoppages are groundless. We refer to the statistics of experience in other jurisdictions contained in the Ontario Federation of Labour brief and to our own experience in Ontario with individual workers' rights to refuse.

There are many other issues addressed in our own written brief, and I would ask you to review it at your own convenience. I would like to introduce you now to John Cartwright, who will speak on behalf of local 27.

Mr Cartwright: I will take only two minutes of your time to do an overview of the supplementary brief that local 27 has put down.

Local 27 is an 8,000-member carpenters' local in the greater Toronto area. We have had five of our members killed since 1984.

There are a couple of things we want to hit on in this brief. First of all, this committee should understand that the main point of construction health and safety is that there is no seniority in construction. The vast majority of employees in construction have no seniority protection. What that means is that if you ask to exercise your rights under the act and you say, "I want to refuse this job," or "I don't want to do this because it is unsafe," you are branded as a troublemaker and you are the first down the road.

If you take a look at the back of our brief, you will see the number of exercises where the ministry has looked at the right to refuse being exercised and you will see how pitiful it is compared to the number of deaths. That is the reality; that is not rhetoric.

That fact, combined with the fact that I do not think has been addressed by very many people in front of this committee, that many of the workers in construction do not enjoy English as their first language, means that safety in construction is put on quite a different basis than it is in other industries.

Local 27 believes that it is possible to integrate a safety agenda into the construction industry. That is possible to be done. It will be done in large part if Bill 208 comes in the way it was originally envisaged.

One of the key elements in that is having a network of certified safety representatives who have a great deal of knowledge about the industry. Those people will be able to pass on their knowledge to their colleagues, both on the joint health and safety committees and to their other colleagues who do not enjoy English as a first language. That is why we think the notion of certified reps on every job above 20 is vital to integrating a safety agenda into the industry.

We are very upset over COCA's response to the notion of certified reps. We would ask you to take a look again at page 15 of COCA's presentation and think about the logic that goes behind the assertions it is making on that issue.

The right to refuse essentially does not exist in the construction industry at this point in time, and if anybody wants to go over this we will be happy to make some time at the end of this meeting, or at any other time, to look at just what that affects, among our members at least.

I am going to be very quick on another couple of things. The question of a bad employer—what is a bad employer? You will see in our brief that

for a whole variety of reasons employers in the construction industry change names and change hats constantly. It may have nothing to do with safety. A lot of it has to do with trying to escape union obligations. We find ourselves at the Ontario Labour Relations Board constantly under subsection 1(4) of the act and that will happen exactly again if the government decides to give the right to refuse or right to stop work only to those employers who are bad employers. You will not see any. They will all have changed their names and changed directors.

The question of the health and safety agency—the previous group that was here talked about the Construction Safety Association of Ontario and what a great job it is doing and how accidents have been cut down. I agree, obviously, with the comments made by Bryon Black about the real reason there are fewer statistics: it is because more employers are not reporting it—they are sending people home at full pay—because that means they pay money. We have a fellow here in the audience who is our compensation director, who deals with that on a daily basis.

Look at how COCA talks about the CSAO in its brief. The CSAO is operated by construction owners for the industry benefit. Mr Mackenzie was right when he asked what is the partnership in that organization—100 members from management, which has just been brought down from 160, to 13 labour people. That is where CSAO is coming in terms of its approach, and COCA is coming in terms of its approach to the agency.

But I want to leave you with a positive note that you will find at the end of our brief, a positive note about the question of how do you change something that is not all that good. Ten years ago our local had very few apprentices. Everybody was talking about how we should have the new generation being trained. We want young people to learn skills. There were no employers willing to hire apprentices because as far as they were concerned it was much easier to get people from overseas. We sat down and we imposed something similar to what we feel Bill 208 will do. We imposed, through our collective agreement negotiations, a formula where employers must take apprentices in Local 27. That happened 10 years ago. Today our local union has over 900 apprentices, both men and women, and the whole attitude throughout the industry has changed—both among our employers, even the ones who had to be dragged, kicking and screaming into it and among our own members, our own workers.

What we saw as a lesson of that is that, with safety, if we impose a safety agenda on the industry, within a short period of time we will find that everybody will get used to that and will do it as a matter of course and we will not have to face the funerals that we face on a regular basis. We urge you to read our brief afterwards. Thank you.

The Chair: Thank you, gentlemen, for a very thorough brief.

Mr Mackenzie: In Sudbury after a presentation by I think it was the Sudbury Construction Association—because I had not asked a question and I was going to refer you to page 5 in your brief and now you touched on it at the end—I was passed a note up from one of the people in the audience which simply read as follows:

“No-lost-time accidents only occur because the employer pays the worker to sit idle in the workplace. This distorts the reporting because the injury is then reported as a medical aid”—we had a chart showing the medical aid accidents —“and two, this keeps their WCB rates down—a misrepresentation to say the least.”

Do you agree with that comment?

Mr Cartwright: Yes, I think we would. That is what we find every day.

Mr Mackenzie: It was used in response to some of the figures that were given to us with this new safety record in the construction industry itself.

The other thing is, you heard the presentation before you, and they are entitled to their views and their rights as well, but what has disturbed me in the hearings, and I make no apology for it, is the unscrupulous workers and the fact that they would frivolously misuse the right to shut down. I am just wondering if you have any response to those charges that have been repeated by almost every construction association before us.

Mr Wildman: Are you scrupulous?

Mr Begg: I would like to comment on that.

Mr Mackenzie: I notice you referred to it yourself as well, so I am not just—

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Mr Begg: When I heard that being mentioned, I sat in this old, old building and I thought to myself, that just reminds me of the old, old days when we built this building. That is what it used to be like in the good old days on the construction site when there was a dangerous situation on a job. They asked workers to go and do the job and a worker said: “I ain’t doing it. It’s too dangerous.” Another guy said: “Well, I’ve got six kids at home, starving. I need this job. I’ll do

it." He would go to the top of the building and fall off and get killed. That is what used to happen in construction when I was an apprentice even. There were situations where it was a challenge to go and do unsafe acts.

I would say right now that our guys are responsible and it has been working very well over the last long, long time where the worker on the job says, "That is not safe." And usually, when the Ministry of Labour comes on the scene, their rep comes on the job and says, "Yes, the worker is right. That job is unsafe." So then the employer says, "Okay, fix it up."

But I can say to you right now, there are thousands upon thousands of cases where the worker says to the employer, "That is not safe," and the employer says, "I agree," and he will immediately fix it and the worker then goes and does the job. So it is not a conflict thing. It is only when some employer says, "Look, I need this job done, do it," and the worker says, "No, it is not safe; I am not doing it." Then he wants the right to go to the next guy who then says, "Would you do it?" That guy may not be as safety-minded or safety-trained as the original guy and he may say, "I don't see a danger; I will do it." He goes in the hole and gets killed.

We really see that as an important issue as far as refusing to work. And definitely right now, the stats prove it; the responsibility on that job site, there is no question about it; the guys on the job when you do that—if you check the Ministry of Labour inspectors' files, you will find in the majority of cases the guys were right in refusing to do the work.

Mrs Marland: I want to say that, anywhere in any of the briefs where there is a reference to unscrupulous workers, I take the same exception to that comment as do my colleagues in the NDP.

I want to get to the point that you brought up this afternoon, which is very interesting, about the language barrier. You are the first person whom I can recall in our hearings who has referred to that issue. I do not know how this legislation makes any difference to resolving that. That is a very important issue; it is a very real concern. I do not know how this legislation helps in that situation.

Mr Cartwright: It would help in two areas. One is the trades committee. If the trades committee is kept on all jobs over 20, that will provide a forum where people whose English is not all that great will be able to communicate, where they feel comfortable with their fellow workers, to the people who will sit on the joint

committee, to say, "Look, this is what I see over here."

I had a case just today. A fellow whose English is quite poor—he is of Italian background—was totally afraid to tell his supervisor about a situation because he did not want to admit that he could not really communicate well in English. By establishing trades committees you will help to bring in the input from all of those workers on to it.

The other area is the certified worker. If there is a certified rep, the certified rep, by having the kind of training that had been envisaged originally in Bill 208, will have a tremendous background to be able to pass on to those workers, and within the shack they will talk about it and it will be translated through people themselves.

When we run a WHMIS course in my local union, we run WHMIS in four languages—English is only one of them, Portuguese, Italian and Spanish—in order that we can pass on safety information to the people involved. So Bill 208 would be very much a part of that.

The Chair: Mrs Marland, would you allow Mr Wiseman a short final question?

Mr Wiseman: Thank you. I just wondered if you could clarify the appendix A that you have there. At the bottom you have the number of stop-work orders. Is the top the result of that, of how many actually were upheld by the Ministry of Labour?

Mr Cartwright: No, the top is the actual investigations of people exercising the right to refuse, which is virtually nonexistent in construction because there is no seniority. The bottom is stop-work orders issued when the Ministry of Labour inspector gets on to the job, either through his own inspection or he has been informed by the local union, or the shop steward saying, "There is something terribly wrong here, come down and please do something."

Mr Wiseman: Who initiates that? Is it the employee on the job for the bottom one?

Mr Cartwright: Usually an employee on the job, or the steward on the job.

Mr Wiseman: How many of those were found to be hazardous when the inspection actually took place, because this morning we heard—

Mr Cartwright: That is the inspection. The stop-work orders are stop-work orders issued by the health and safety inspector.

Mr Wiseman: Just to clarify it a little more for me, how serious would some of them be? Would it just be a cover on a machine or something, or is it something—

Mr Cartwright: No, I will give you an example of how serious it does not get. Two weeks ago I was on a job site. I was phoned by the steward, who is an Italian fellow who has very poor English. He phoned me and said, "Please come down here right away." I walked in and there is a 14-foot trench dug with no shoring and the company had two people at the bottom of that forming a column. The Ministry of Labour inspector came by and all he did was ask the company to please excavate it at 45 degrees so it does not fall and bury these people. There was no stop-work order issued.

Even in that kind of a situation, it was rectified without a formal order being issued, so you can imagine the kinds of things that are in place—

Mr Wiseman: I guess I could ask it another way. With the bottom one, if those were the numbers where some infraction had taken place—

Mr Cartwright: A stop-work order is not issued.

Mr Wiseman: —how many were recommended that were not? I am trying to get at what the chap this morning was telling us. One fellow said he was with a firm over eight years and he had had two. I wondered here how many you might have started off with and how many actually were approved as being a hazard by the Ministry of Labour.

Mr Begg: These statistics are from the Ministry of Labour. When they issue a stop-work order, there is something wrong.

Mr Wildman: He is asking how many refusals were—

Mr Wiseman: How many refusals versus how many were—

Mr Cartwright: Do you see how many refusals there were? The top one is the number of actual investigations. That is where a worker exercised his right under the act to say: "I will not perform this work. Please phone the ministry and

get them down here." It has no relation to the bottom.

Mr Wiseman: No, no, but with the bottom, in order to get those stop-work orders, how many would there be? There would be many more than what appears there, I would imagine, because in some cases they would not be serious enough to have a stop-work order put on them.

Mr Begg: What I would say is the majority of cases, the Ministry of Labour inspector is doing his routine inspections on the job sites and he is the guy who just walks on as an inspector, sees something wrong and puts a stop-work order. That is the normal practice.

Mr Wiseman: Yes.

Mr Cartwright: If you look in the middle column you will see the number of orders issued by the Ministry of Labour—32,000. Of them, 1,500 were viewed as being serious enough to have stop-work ordered at that point in time. The order is just a correction of something on the job itself. It is when they are serious enough to be stopped by the ministry and ministry investigator.

Mr Wiseman: So about five per cent—

The Chair: Mr Wiseman, I wonder if you could carry on this debate after adjournment—

Mr Wiseman: Okay, but only about five per cent of stop-work orders—

The Chair: —because we are not just out of time, we are past time. The committee is adjourned until 8 am tomorrow. I would remind members that we want to get away from here as close to eight as possible, so if you could be at the bus at 8 am, we shall be on our way to Kitchener.

Mr Wildman: Mr Chairman, are you exercising your right to stop work?

The Chair: The committee is adjourned.

The committee adjourned at 1706.

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Official Report of Debates

Legislative Assembly of Ontario

Standing Committee on Resources Development

Occupational Health and Safety Statute Law Amendment Act, 1989



Second Session, 34th Parliament

Tuesday 6 February 1990

Speaker: Honourable Hugh A. Edighoffer
Clerk of the House: Claude L. DesRosiers

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with a list of the members of the committee and other members and witnesses taking part.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday 6 February 1990

The committee met at 1001 in the Kitchener Suite, Valhalla Inn, Kitchener, Ontario.

OCCUPATIONAL HEALTH AND SAFETY STATUTE LAW AMENDMENT ACT, 1989 (continued)

Consideration of Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

The Chair: The standing committee on resources development will come to order. Can you hear me back there at all? You cannot hear me. Is that a little better now? I regret that the sound system is not better than it is, but that is in the control of the hotel, so we will cope as best we can.

The standing committee on resources development has been told by the Ontario Legislature as a whole to conduct public hearings all across Ontario on Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

It is our task to go around and hold public hearings to hear public submissions across the province. At the end of that, later this month, the committee, having heard all the submissions, then sits down and goes through the bill clause by clause to determine what, if any, amendments should be made to the bill. That is our job. At the end of that it is reported back to the Legislature, either amended or not amended, depending on what this committee does.

This is an all-party committee consisting of six government members, two Conservatives and two New Democrats, roughly in the proportion of membership in the Legislature itself.

I would like to introduce members of the committee to you who are here today. A couple of others may be joining us later. On my far right, and it is appropriate I begin with the local member, is David Cooke, the member for Kitchener.

[Interruption]

The Chair: Order, please. We will not abuse you. Next is Michael Dietsch, the member for St Catharines-Brock. Next to him is David Fleet, the member for High Park-Swansea in the west end of Toronto. Right in front of me is Ron Lipsett, the member for Grey, and Jack Riddell,

the member for Huron. Across the table is Doug Wiseman, the member for Lanark-Renfrew. To my immediate left, sitting up here at the front is Margaret Marland, the member for Mississauga South.

[Interruption]

The Chair: I did not think you knew all these people. I do not have to introduce them. On my far left is—wait for it—Bob Mackenzie, the member for Hamilton East.

[Interruption]

The Chair: And I do not want to tell you who I am. I am Laughren. I represent the riding of Nickel Belt, which is up near Sudbury.

We are pleased that you are here. There are some very basic rules that we follow, and I really do want you to follow this carefully. People who make appearances before the committee do so at the invitation of the committee. We want them here. We want to hear them, and it is inappropriate—because the rules of the Legislature really follow the committee around. We are an agent, if you will, of the Legislature, an extension of it.

I would ask that you not abuse people who are making presentations, even if you disagree most strongly with their views. We will not let them abuse you and would ask that you not do that. The committee may from time to time abuse people making submissions, but that is different; that is one of the privileges. So I would ask that you not abuse people who are making presentations. We really do want to hear from them and we must hear all views if we are going to be serious about considering this bill in the clause-by-clause debate.

We have a very full agenda today, so I do not want to take any more time in introductions.

Mr Mackenzie, a point of privilege.

Mr Mackenzie: A point of privilege, Mr Chairman: I think a privilege and responsibility of the committee have been impinged on. There is an article that appeared in yesterday's Kitchener-Waterloo Record which is the reported interview with the Minister of Labour (Mr Phillips). I think the first two paragraphs are key to this committee because they really raise the question of why this committee is even holding hearings.

“‘Giving individual workers the right to shut down unsafe workplaces would undermine the partnership between management and labour,’ says Ontario Labour minister Gerry Phillips. ‘The Liberal government backed off from the most controversial sections of its proposed health and safety legislation because of the damage it could do to labour relations in the province,’ Phillips said in an interview. ‘My biggest concern is that rather than enhancing the partnership, I am afraid we would undermine the partnership,’ he said.”

That information is not available to this committee. The bill we have before us has not yet backed off that provision. We have not been given the courtesy of any amendments that make that specific move, and if that is already the position being expounded in public in an interview just yesterday by the Minister of Labour, then I think this committee has the right to, and should, ask the Minister of Labour what gives, what is the purpose of continuing these hearings at all, and I think we are entitled to an answer to that because that is what this committee is supposed to be discussing and coming up with an answer on.

To finish my comments, and they are very brief, I think that is a legitimate question because, as I say, we have not seen any such amendments. We either get an answer from the Minister of Labour as to why he has made this comment and an explanation of it, or this committee's usefulness is just about finished. We either have an apology and an explanation due us, or we have the dumbest Minister of Labour this province has ever had.

The Chair: I would have great difficulty accepting that as a legitimate point of privilege. I will not comment on what the minister said, other than to say that it is up to this committee, when we get into the clause-by-clause debate, to determine whether or not anybody's advice is taken. The committee will make its own determination, presumably, as to whether or not any amendments are made to the existing bill. The bill we have before us now has not been amended. We have not even seen a proposed amendment. We have had statements from the minister, but we have not seen the wording of any amendment. When it comes time for the clause-by-clause debate, that is when the committee will have to make that determination.

As the chair, I can only assume that at that point this committee will determine how, if in any way, to amend the existing bill. We have to go on the assumption that one of the reasons we

are having public hearings is to hear what people think, to help the members determine whether the bill should or should not be amended. So I think we had best get on with our presentations here today if there is no further comment on that issue.

Mr Mackenzie: Mr Chairman?

The Chair: We do not want to prolong it, though, Mr Mackenzie.

Mr Mackenzie: I do not wish to prolong it. I think then it is legitimate to now ask, if this is the position of the Minister of Labour, that we have the amendments. I think the committee should request any amendments he is going to bring in terms of the right to refuse.

The Chair: Perhaps at another time you could prepare a motion for the committee to ask for that, in which case the committee could debate it and vote on it at that point. That would be helpful to the chair.

Mr Dietsch: I do not know what the member gets all exercised about, other than the fact that there is a large audience here to speak to today on his behalf. Certainly there is nothing in the minister's comments with respect to any amendments. I think it is a view that has been shared in the House when second reading was going through and, quite frankly, I am amazed that the member finds some discomfort in those kinds of comments today.

Mr Mackenzie: It says it backed off.

The Chair: I think it would be inappropriate to continue the debate. Mrs Marland, do you have a brief word? that would allow all three parties to be on the record then. I do hope you will be brief, because we want to get on with the presentation.

1010

Mrs Marland: I will be brief. At the outset of our hearings when the minister was before us, I asked that day that we have the amendments before the committee so that when we were on the road hearing from the public, the public would then know what the final position of this minister and this ministry was going to be as far as this bill as presently drafted was concerned. I think the article in today's paper only points out the importance of the question of having those amendments and at least honestly know what the direction of the government is going to be on this bill. Otherwise, all the public hearings become a charade, because people are responding to something that in fact may not be the final draft of the bill.

I think it is pretty disgusting. I share the concerns of Mr Mackenzie, because people are

putting out all that effort and expense of travelling around this province to hear the public, and members of the public to make their presentations at their expense, and they may be putting all that effort into something that is no longer going to be part of the bill. So the whole exercise as far as I am concerned is a total waste of time.

The Chair: We really must move on, because we are here to hear from members of the public.

The first presentation this morning is from the Waterloo Regional Labour Council, Mr Samuelson. The committee has decided that each presentation will be 30 minutes. That 30 minutes can be used entirely in making the presentation, or you can save part of the time for an exchange with members of the committee. We really have been trying to stick to that 30 minutes, because if we give one group more than 30, the next person is going to demand it, and the first thing you know we are backed way up and we do not hear the presentations at the end of the day, and that is not fair. So Mr Samuelson, we welcome you to the committee and we look forward to hearing you. The next 30 minutes are yours.

WATERLOO REGIONAL LABOUR COUNCIL

Mr Samuelson: Thank you very much. I would like to use about 30 seconds of my time to indicate to people, if they are parked in the federal parking lot on the other side of the labour hall, if they do not get over there very soon, their cars may be towed away.

Having said that, I would like, first of all, to introduce myself. I am Wayne Samuelson. I am president of the Waterloo Regional Labour Council. With me this morning is Michael Coleman, who is chairperson of our health and safety committee.

The Waterloo Regional Labour Council is pleased to welcome you to Kitchener. As president of the labour council, I have the responsibility of making the first presentation to your committee. Today I am confident you will hear sincere representations on behalf of working people. I ask you to consider the material and understand that the safety of workers is an issue we must all agree is a priority.

You will hear many statistics relating to this issue. I would like to remind you that to those whom you will hear from today, to labour, these statistics are actual people, people we work with, our families, friends and, yes, in many cases you will hear from those who have suffered at first hand the effects of a workplace accident.

Mr Coleman: I would like to start by reading something from Mark Stobbe, and I think the whole thing hinges on this.

"The production of injury, disease and death is not 'accidental', or the result of some act of God, fate or human nature. Injury and mortality rates have exhibited remarkable consistency over the past decade.

"Employment in any industry or occupation brings with it a predictable probability of harm. Specific levels of ill health are designed into specific production processes.

"A machine can be designed with or without protective devices. A workplace can be built with or without adequate lighting, ventilation, noise mufflers and so on. Production can occur at varying rates of speed. There can be more or less maintenance and housekeeping. Personal protection equipment can be supplied and its use encouraged; similarly wages do not have to be based on piecework. Decisions made in any of these areas and a host of others help to determine how healthy or unhealthy a workplace will be. Clearly the issue of health in the workplace is not so much a medical problem as a political and economic one. Controlling occupational injury, disease and death becomes a question of control over the workplace."

In January 1989, the then Minister of Labour, the member for York South (Mr Sorbara), introduced the Occupational Health and Safety Statute Law Amendment Act, Bill 208. Mr Sorbara's 24 January 1989 background paper, *New Directions in Workplace Health and Safety in Ontario*, outlined the government's proposal for change: "This paper sets out the basic principles which will guide government action in the pursuit of an integrated and collaborative approach to the management of occupational health and safety."

It seems that the loss of seven million days of production annually to accidents and illnesses, combined with 300-plus workplace fatalities in 1987 and almost \$1.5 billion in Workers' Compensation Board payments, gave the minister cause to introduce legislation to amend Bill 70. For the first time in a decade the Minister of Labour sought to improve the health and safety of Ontario workers. These measures were aimed at strengthening the joint responsibility and responsible participation of labour and management in the effective control of workplace risks.

The minister, in his background paper *New Directions*, outlined the eight basic tenets of Bill 208 and refers to "effective involvement of workers and employees," "control of workplace

risks by workers and employers," "responsible behaviour by both parties," and says, "Expanded and more effective participation of the workplace partners is a key requirement."

Mr Sorbara's outline alludes to a partnership, joint responsibility and joint training, with appropriate equal rights and control in an effort to reduce risk. Through Bill 208, Mr Sorbara seeks to expand a worker's control over the level of risk in the workplace by expanding his participatory rights. Although Bill 208 was not a piece of legislation authored by labour, organized labour in Ontario reluctantly embraced it as a major step forward. Shared responsibility and control in the workplace obviously would reduce risk.

Mr Sorbara's Bill 208 made provision for joint health and safety committees in every workplace of 20 or more employees, including 30,000 office and retail establishments and on construction projects expected to last three months; worker health and safety representatives in all workplaces of between five and 20 employees, or on a construction site with more than 20 employees but lasting less than three months; require co-chairpersons on the joint committees; require one hour paid preparation time for all joint committee members for each meeting; all medical surveillance requirements to become voluntary; the duty of employers to pay costs, including lost time and travel where a worker undergoes a medical examination required by law; the right to refuse unsafe work will include "activity," which covers repetitive strain situations and poor design; require a certified worker and management member in each workplace, with special training; when the members are certified, they will have the right to shut down an unsafe operation; establish a bipartite Workplace Health and Safety Agency that is responsible for overseeing all of the training and research moneys available to the present safety associations, the Workers' Health and Safety Centre, the two labour-controlled occupational health clinics for Ontario workers and any research projects undertaken within the ministry or through grants to outside interests; ensure more training for all in health and safety, and increase the maximum fine to \$500,000.

With proposed changes to Mr Sorbara's Bill 208 that would address seven serious concerns of labour, the Ontario Federation of Labour lobbied the MPPs at Queen's Park to support the bill. The seven points of concern that organized labour saw as stumbling blocks to their support of the bill are as follows.

1. The requirement that the Workers' Health and Safety Centre and the two occupational health clinics become bipartite. Labour did not want to lose control of these organizations.

2. Concern was raised over the fact that a worker certified member of the joint committee could shut down unsafe work and a management certified member could restart the operation. Labour felt that an inspector should be called before a stop-work order could be cancelled.

3. Public sector workers are limited or exempted from the right to refuse or the right to stop work. All workers should be covered.

4. Workers affected by a work refusal or a stop-work order are not paid.

5. Farm workers are excluded under the act.

6. No improvement in the appeal system against ministry actions. There should be an independent appeals body.

7. An amendment is required to force the ministry to prosecute violations of section 24. Management reprisals against refusing workers cannot continue without swift and harsh penalties.

Intense lobbying by labour and management continued, it seems with success going to management. Mr Sorbara has been replaced as the Minister of Labour by Gerry Phillips. Mr Phillips, at second reading of Bill 208 on 12 October 1989, introduced some new amendments to the bill. Organized labour is crying foul. The Provincial Building and Construction Trades Council of Ontario is particularly stung. Mr Phillips's amendments address what he calls concern about specific features of the bill. In actuality, Mr Phillips's amendments impinge on the specific features of the bill that labour has applauded. The minister's announcement is a clear signal of betrayal to all Ontario workers covered by the proposed gutted version of Bill 208.

Some 100,000 unionized construction workers see their rights to a safer workplace reduced to a level less safe than that which Bill 70 previously provided. The criteria for joint health and safety committees on construction sites has been set at levels that are clearly unrealistic. Also, the number and extent of job site inspections is clearly not reasonable or fair to construction workers in Ontario. Construction workers in this province need not feel alone, because the changes proposed by the Minister of Labour will effectively negate any positive change in the health and safety of all workers.

The internal responsibility system that Bill 208 proposes to enhance requires the depolarization

of the workplace. The two sides must come together with mutual power and control over those situations that lead to risk and injury. Responsible use of authority, shared jointly between management and labour, can only result in a better, safer work environment. The reduction of risk and accidents is the goal we all share, and we believe that Mr Sorbara's Bill 208 was and is a positive step forward.

Mr Phillips's amendments only detract from the effective partnership we have tried to envision. We as representatives of organized labour in this area urge this committee to recommend full partnership between management and labour as prescribed in Mr Sorbara's Bill 208, with the Ontario Federation of Labour's amendments, and allow the workers of Ontario to reap the broad social and economic benefits of a safe workplace where a worker's health and safety is protected. Thank you.

1020

Mr Samuelson: Mr Chairman, I would like to say a few more words. I am not going to talk about words that come from a paper; I am going to talk about words that come from my heart. I am not going to talk about statistics or numbers. I simply want to say to you—and I was thinking about this on the way down this morning—how important I think it is that we empower workers to have some control over their lives and whether in fact they are injured.

The reality is that workers in this community build cars and the bus that you drove down here this morning at 100 kilometres an hour. They constructed the building we are sitting in today. Those workers take care of my children and my grandparents, and I think they are people who can be trusted. Our employers continually tell us how important we are, and I think people in this room will tell you that their employers continually sit down with them and say, "People are our most important resource," and quite frankly, I agree. I appeal to you to please place the trust in those people over their lives that they deserve. The reality is that I have been injured on the job, I have seen other people seriously injured and I have seen people killed, friends of mine, on the job.

I think the people behind me today are legitimately concerned. We sit down with management on a daily basis and we work out many, many problems. I think that we can sit down with management and we can work out health and safety problems if workers are in fact empowered to do so. Notwithstanding the comments of the minister—and I recognize the

situation is becoming very political, I understand that, and I have had some exposure to it. But taking all that aside, I ask you to please consider placing before the government legislation that in fact gives workers that basic fundamental right to say: "I can be trusted in the workplace, I can be trusted to build a good product, I can be trusted to operate \$1-million machinery. For crying out loud, please trust me to decide when I think my work is unsafe." Thank you very much.

The Chair: Thank you very much. Mr Mackenzie has a question.

Mr Mackenzie: Mr Samuelson, is it your belief and contention that the agency approach, the bipartite approach, whereby labour and management are making the decisions that affect them in the workplace, particularly in the field of health and safety, can lead in this province to a demand that is made by many people, usually on the business side of the issue, that we need a more co-operative approach; we need an approach based on some mutual trust; that if we can achieve this in the field of health and safety, it harbours well for the future of labour relations in the province of Ontario?

Mr Samuelson: The fact of the matter is that, as union negotiators in my place of business, my employer's place of business, and the people whom I talk to, we have the ability to sit down and talk to management and resolve things, provided that we are in fact empowered to do so. I mean, I do not need people coming in to tell me what needs to be done. I have faith in myself, and I will tell you, I have faith in these people behind me to be able to sit down and work those things out. All there needs to be is the framework to empower the people to do that. That, my friends, is the responsibility that rests with you.

Mr Mackenzie: The second question—I only have one other question to ask—is that we have a rather abominable record of injuries and death in the workplace in this province. Do you know of any examples, or can you name very many examples, where the workers who ended up getting injured or dying in the workplace were owners or management?

Mr Samuelson: To be quite frank with you, were that the situation, I suggest the legislation would be much different. The reality is that in my plant we have people injured every day and I know of no managers who were injured.

Mr D. R. Cooke: I want to welcome all the members of the committee to Kitchener and welcome Mr Samuelson to the committee and indicate to the committee that Mr Samuelson,

whom I have known for many years, is a tireless worker, not only for organized labour in this community but for the community as a whole.

I commend the presentation of the labour council to the committee to look at very carefully. There is one thing in it that I would like to ask about, however. Understanding that the matter has become somewhat politicized, as you have indicated, Mr Samuelson, and you understand that, and understanding that there are some matters under consideration that you are taking exception to—you have indicated in your brief that the passage of the legislation, I suppose with the proposed amendments, would make the workplace less safe than the workplace is today, with the 300-plus deaths that have occurred and the seven million man-hours lost in injuries per year—but you have not really specified why you feel we would be better off carrying on with the situation that we have today, as opposed to passing amendments. I wonder if either of you could clarify that,

Mr Coleman: I think that alludes to the construction industry, just within the time frame, say, for the onsite inspections, where they were once a month under Bill 70 and it was up to the health and safety rep where he was going to go and how much he was going to inspect on his one monthly tour. The amendment would call for an inspection once in a year of the job site, and the reality of the construction job site is that it changes every day. You can slap a new floor on every 14 days, so there is another floor of hazards to be dealt with. I think in that respect that the lessening of the time for inspection would reduce any chance to identify any hazard. That is specifically what that refers to.

Mr D. R. Cooke: You would like to see more inspections? I think we all would.

Mr Coleman: Construction joint committees would be very helpful to the situation too.

Mr D. R. Cooke: Yes, but this legislation will bring in joint committees on construction sites.

Mr Coleman: Not according to Mr Phillips's proposals.

Mr D. R. Cooke: No, but they will be in certain circumstances; not in all circumstances.

Mr Coleman: There already are, under certain circumstances now. We have committees on job sites where people are killed now. As soon as somebody dies, they just step right in and put a committee there after the fact. It is very helpful.

Mr D. R. Cooke: Surely that is not acceptable.

Mr Coleman: It is certainly not.

Mr D. R. Cooke: Why is it that you are recommending that we, as opposed to the proposal, do nothing?

Mr Coleman: I think we are referring to the changes by Gerry Phillips, rather than Sorbara's idea.

Mr D. R. Cooke: I see.

Mr Samuelson: Also, if I could, as the press story yesterday clearly indicates, we seem to be having a real problem. I keep going back to this because I think it is important in terms of the whole question of putting in place a structure and climate that in fact allow management and labour to work together and to empower those workers.

The thing that concerns me the most is when the minister is suggesting, actually very strongly according to the press, that in fact they should back off and reduce those rights of workers. The whole suggestion of having good workplaces and bad workplaces and those kinds of issues are issues that the minister is dealing with that I think will have a negative impact on workers. I think it is an issue that this committee is going to have to wrestle with in terms of putting in place some legislation that in fact will reduce the risk. I think, as the minister is suggesting now and as he has suggested in the House, that is not the case.

Mr D. R. Cooke: Do not get too carried away about the report, because the part that Mr Mackenzie quoted—

Mr Samuelson: "Do not get carried away"—I am sorry.

Mr D. R. Cooke: It can be interpreted somewhat ambiguously as to whether or not that was Mr Phillips's or Mr DeRuyter's comment.

1030

Mr Samuelson: What are your comments? What do you think, David? Quite frankly, do you think I should have the right to decide that the work is unsafe, after I have had the training, as a union representative? I consider myself to be a very responsible person, and after I have had considerable training, why should I not have the right to advise people and to in fact save people's lives? The reality, the situation as it exists now is that people are being injured on the job. You have a choice. It is either you recognize my abilities—and when I say "mine," I mean mine and the group behind me and the groups that work in the factories across this community, you recognize their abilities. I think that is very important and I think that is fundamental.

Mr D. R. Cooke: I have no question but that you should have a major share in the responsibility.

ty of making those decisions, no question whatsoever in my mind personally.

Mr Dietsch: I want to pursue Mr Cooke's line of questioning in respect to your comments are relative to the construction industry. I am wondering if you hold the same view in relationship to some of the other labour groups that you represent.

I think we have to bear in mind some of the things that have been proposed within the bill and some of the items that have been suggested amendments by the minister in relationship to improvements over the present act. There are some 20,000 additional joint health and safety committees; certified committee members, over 20, from labour and management; increased fines; top managers—and this is something that, quite frankly, I think is a major step. I should tell you that I come from the factory floor for 24 years and I have some experience with respect to working on the job site. Top managers and corporate directors and officers of the company are now going to be held accountable, and I think that is a major step in terms of dealing with the overall improvements.

I think the other major step, and I am sure you would agree with me, is the importance in respect of training and enhancing the partnership in the workplace. I think the figures that have been bandied around by individuals who have come before us from both business and labour are in the neighbourhood of 200,000 individuals trained for certified positions. I think those are accomplishments that are held over the present act, and I guess I wonder where you are coming from or if you are just dealing strictly with construction when you talk about "less safe." Those, I think, are advanced improvements over what the current act presently holds.

Mr Samuelson: If you tell me—and I could be mistaken—that you support the suggestions the minister is making and that in fact those combined with Bill 208 will provide a safer workplace, my answer is no. I applaud anybody who wants to place more accountability on managers and I think probably the legal profession will be very happy; this stuff can drag through the courts. What I am looking for is legislation that says to me as a worker that the government and society trust me enough to make a decision as to whether my workplace is safe. I am fully supportive of measures that increase training, and I say that sincerely. I think that is the direction that we have to move.

What concerns me is that we seem to have moved in that direction, and now we are moving

back. I do not even know where we are any more, it has become so confusing to me. I do not know what the minister is going to say tomorrow. But I can tell you that we need to put in place legislation that allows people the right to in fact provide for themselves and make sure their workplace is safe. I am not saying that we do not need more training; I agree. I think every hour of training we do—training workers properly, if I could qualify that, in terms of the workplace—results in somebody not being maimed, injured or possibly killed.

Mr Dietsch: So you are telling me you feel that the improvements that are made over the present act, the improvements that are being suggested in Bill 208 and the amendments by the minister, are not an advancement. The 50 per cent worker participation on the agency, the 50 per cent worker participation on the safety associations and all the additional joint health and safety committees and the certified workers—you are telling me that is not a step in the right direction.

Mr Samuelson: No, I am not.

Mr Dietsch: I thought you said no.

Mr Samuelson: What I said to you was, and hopefully other people were listening—

Mr Dietsch: I was listening as well.

Mr Samuelson: Okay, well maybe you are not hearing.

Mr Dietsch: Maybe you are not saying it clearly enough.

Mr Samuelson: What I am saying to you is that I agree with you, we need to have 50 per cent participation, we need to be recognized in terms of control as equal partners. I am not disagreeing with that; I am not disagreeing that we need training. What I am suggesting to you is that as you allow those things to happen and then take away some of the fundamental control mechanisms at the top, you are destroying the structure you are putting in place, and the result will be lack of participation, I suggest, and that is certainly a decision that will have to be made by people other than myself, but certainly a lack of people having that basic, fundamental control. I am sorry to keep coming back on that, but I see that as key to your putting in place legislation that makes sense.

The Chair: Mr Dietsch, would you leave enough time for a quick question for Mrs Marland?

Mr Dietsch: Yes, go ahead.

Mrs Marland: In the article that you were quoting this morning in the paper from yesterday, Mr Phillips is saying, when he is talking about the right to shut down production, "If that doesn't exist in any collective agreement, maybe we should look at that before we impose it in every workplace." How do you react to that? I mean, if he follows that through, is the answer going to be that it becomes part of every collective agreement? Then what happens to the non-unionized, unorganized workers around the province? How do you feel about that?

Mr Samuelson: I think, first of all, the minister is, quite frankly, missing the point. I can tell you that trade union representatives place health and safety as a priority during negotiations. Whether it exists or does not exist or will exist or will not exist in the future, if you believe that issue ought to involve management-labour confrontation in order to achieve the goal, then that is fine, and maybe that is what the minister thinks. I believe that as a society we have an obligation to all workers, whether it be in the big plants in Kitchener that have unions or whether it be in the smaller plants that do not have unions yet. I believe that as a society we ought to set some kind of framework to allow people to in fact go home at the end of the day and not be injured or maimed.

I have to wonder when I read this, and it really bothers me, if the minister is not in fact trying to create confrontation. I mean, that is almost what it looks like. Certainly I understand it is a press release. I understand how that works in terms of what he said or what he did not say, but as that quote sits, it almost evokes a confrontation. If the minister wants trade unions to in fact place on the bargaining table—and I will guarantee you it is going to end up there, but I think you are right, and I think you have touched a very important point. I want protection for all the people in this community who go to work in the morning, and I think the government has a role to play in that.

1040

The Chair: Thank you Mr Samuelson and Mr Coleman, you have got the committee off to a fine start today. We appreciate your brief.

I would ask the Perth County Board of Education to come to the table. While they are coming, I would be remiss if I did not draw the attention of committee members to the presence of a former MPP from Cambridge, Monty Davidson, who is in the audience. Wave your hand, Monty. I cannot remember which party he was with.

Mr Corke.

Mr Richardson: I am John Richardson. Somehow Mr Corke has not seemed to be able to make it. Oh, he has just arrived.

The Chair: Gentlemen, we welcome you to the committee and for the next 30 minutes we are in your hands.

PERTH COUNTY BOARD OF EDUCATION

Mr Richardson: The thrust of our intervention will be significantly different from the first proposal and we make this on behalf of the Perth County Board of Education in reaction to proposed amendments as an opportunity to put forward some thoughts.

It is not our intent to argue against the worthwhile amendments but to draw to your attention the long overdue recognition of the educational component of the workforce. Well into the hundreds of thousands of employees are involved in it from universities to colleges and to schools and other institutions associated with education. We want it to be recognized as a viable sector-specific group which has different needs and is organized in its own unique manner, different from the industrial model and the construction workers' model.

The impact: If these amendments are passed, the number of worker health and safety representatives in each board may increase dramatically. The amendments will require that a worker health and safety representative be selected by workers at each workplace of more than five and fewer than 20 employees. Previously, there has been no legislation requirement for worker representation at work sites of this size.

The Ministry of Labour regards each school as a workplace; therefore each school must meet the requirements of the act and regulations. Normally, a joint health and safety committee is required at each site where 20 or more workers are regularly employed. This number includes evening and night shifts. However, regulation 191/84, which is the most current regulation, permits the establishment of one joint health and safety committee per board for all its teachers.

The Ministry of Labour has also been accepting single or geographic areas of joint health and safety committees for nonteaching employees. Other boards have been issued ministerial orders that impose the establishment of a joint health and safety committee for nonteaching employee groups. There is some sensibility in that approach, but we would like to define this a little more clearly. The status of these ministerial orders is uncertain and will be rescinded,

modified or maintained by changes if the amendments are passed. If the amendments are passed and the status of the ministerial orders changed, additional joint health and safety committees may be required at schools and other board locations.

The requirement for certification of a management and worker joint health and safety representative is new. The nature of that training we do not quarrel with, because in certain sectors this may be a very worthwhile and healthy approach to inspection of the work site.

The training of certified workers will be costly in terms of personnel resources if additional joint health and safety certification is required at schools. It has been suggested that a training program of 160 hours is being considered to provide certified joint health and safety members the knowledge to order work stoppages. Because certain employee groups select their representatives on an annual basis, a high turnover rate must be anticipated. For example, a large secondary school can have an active night school program or continuing education program that can have 175 employees working over a 24-hour period. The joint health and safety committee would comprise a minimum of four members, two of whom must be certified. In order to recognize the difference in teaching and nonteaching working conditions, the joint health and safety committee may recommend that a worker representative from each area be certified.

You can see the multiplier effect. We are only a small board with 34 work sites, and with our neighbouring board in Waterloo we are looking at something around 250 work sites. That is a multiplication of the joint health and safety committees requiring certification at each work site. It is costly if you take a teacher out at \$50,000 a year, and a 150-hour work is a very expensive cost to lay on an area that has, in my memory, not had a death on the work site nor, to my knowledge in this area over a period of 10 years, a major accident other than the ones that are normal and we have identified. Accidents are on entry to school on steps and in stairwells, much on the same level of accidents that you would see. Some of these accidents turn out to be quite serious inasmuch as there are broken bones at stake here. But I would like you to think that some of them are not oriented to the kinds of site conducive to dangerous employment.

Here is a very serious one why we are pushing for sector-specific. At present, school boards and other educational institutions have no voice with the Ministry of Labour or the Workers' Compensa-

sation Board. Other large sectors have specific safety associations such as the Industrial Accident Prevention Association, a very worthwhile education-oriented lobby for the industrial sector, the Construction Safety Association of Ontario and the Farm Safety Association.

In contrast, there is a Workers' Compensation Board program for colleges, universities and schools and associated educational institutions. It is called the Colleges and Universities Safety Council of Ontario. Its short form is CUSCO. Unless CUSCO becomes a sector-specific safety association before the formation of the new Workplace Health and Safety Agency, there is a strong likelihood that schools may be represented by one of the existing safety associations such as the Industrial Accident Prevention Association. CUSCO also provides assistance in the development of student safety programs. A recent project has been the publication of safety guidelines for teachers selecting industrial firms for co-operative education and work-study programs, which are by far our fastest-growing off-school-site programs and very positively received in the workplace.

To a large extent, the thrust of the proposed amendments of the bill are education-oriented—we salute that—through the certification program and the establishment of the Workers' Health and Safety Centre. However, the needs of the educational institutions are not being considered. Educational facilities must be recognized as a separate entity in the development and establishment of occupational health and safety laws and regulations.

A specific safety association for educational institutions would be able to meet the sectorial needs and provide representation to the Ministry of Labour and the Workers' Compensation Board. For example, it could provide representation for the development of specific regulations separate from the industrial establishment regulations. A noteworthy step in this area was that hospitals have recently succeeded in obtaining specific regulations even though they have smaller numbers of workers than the education-oriented programs—and quite a significant difference in the numbers—yet we are every bit as unique in our workplace as the hospital workers are. In obtaining specific regulations for their work environment through efforts and the support of their safety association and governing bodies, a similar approach could be used for schools, colleges and universities.

In summary, the thrust that we have is recommending that the standing committee on

resources development incorporate the following in a plan to address the education sector based on the foregoing information. We would like to see this committee initiate a process to establish a separate regulation for schools and other educational institutions—we feel the need is there; the organization is uniquely different from the industrial model and the construction workers' model—and support for the establishment of a sector-specific safety association for educational institutions.

We make this presentation in the hope that it will assist you in your deliberations on the safety of workers in Ontario.

1050

The Chair: Thank you, Mr Richardson and Mr Corke. We have a question from Mrs Marland.

Mrs Marland: When I think of school boards, I think, as most of us do, of the teaching staff, but every school board employs cleaners and caretakers and maintenance people. If you have a sector-specific exemption to this bill for school boards, what kind of protection would that provide for your cleaners, for example, who are working at night? Maybe you can tell us whether the Perth County Board of Education has cleaners working alone at night or whether they are always in twos or multiples of workers together. What happens at night in a school board with supervision of each other?

Mr Richardson: The situation is similar in most school boards across the province, particularly where you have large secondary schools. They tend to work on evening teams. There is a program where the supervisor moves from one location to another. On occasion, between five o'clock and seven o'clock at night in our elementary schools, we do have a few workers who are working alone. We are looking at establishing a telephone service so that if a person is not home by, say, the normal time of arriving home at 8:30 after work, the person at home or someone we are checking with would phone in.

The situation on that is that most of these people in that situation are non-union members but are contracted cleaners. Where we have organizations through the London and District Service Workers Union, which is the official representative of our custodians, they work in teams.

Mr Mackenzie: I have some difficulty in understanding why you would have some objection to this legislation, inasmuch as we have a

variety of different operations. Retail store employees are certainly in a slightly different category from a factory worker, yet there is no intent to try to carve them out of this kind of legislation. There is a variety of different workplace operations. My difficulty is in understanding just why you think you should be exempted from this.

Mr Richardson: Well, I think there is a strong feeling among those who are involved in occupational health and safety work in the schools and in our annual conferences and with CUSCO that in the conditions of work, with some exceptions as outlined by Mrs Marland, we have people such as plumbers and electricians who are in the operations end of our work and we see them falling more into this category of work because their activities somewhat parallel what would happen in construction and in the industrial model. We are talking here about approximately 90 per cent of our employees, and it could be higher.

The working conditions are generally confined to a classroom or up and down the stairs at recess to supervise activities in the playground. The only other one that would seem to have some activity of more exertion would be anyone demonstrating in a physical education class, where there would be some kind of physical effort that would be out of the ordinary.

Based on that kind of activity, and it is paralleled at community colleges and universities and our private schools, if we are forced into the model, we would have to have a committee at every school. Right now we have what is known as a site committee elected by the teachers, and custodians are part of that. They sit with this committee, and the committee chairperson and the custodial representative carry out the site inspections on a once-a-month basis. All observations are centred into a central committee and we observe on them and make recommendations for correction.

We feel that if these committees are to be expanded into full-blown committees, we may be encountering a level of supervision that I do not think is warranted by the level of accidents in the area and the costs involved. They would be considerable. When we start sending off, say, 32 of our people at 160 hours a week, you can see the cost to the school board and the taxpayers, when there does not seem to be a heightened focus on the nature of accidents in our workplaces.

Mr Mackenzie: Can you tell me if you are speaking, in effect, for the various teachers' federations or groups?

Mr Richardson: No, our committee is a joint committee that has members of the Federation of Women Teachers' Associations of Ontario, the Ontario Public School Teachers' Federation, which is the men's group, and the Ontario Secondary School Teachers' Federation.

This report comes forward with this committee giving its blessing. Management only has two members on that committee. There are members of the London and District Service Workers Union and the Canadian Union of Public Employees on the committee and there are only two management members. So this is a joint presentation.

Mr Mackenzie: You are speaking then on behalf, you are telling us, of the teachers and CUPE.

Mr Richardson: As represented on the committee, yes. The minutes of our committees are posted on all bulletin boards in the schools.

Mr Wiseman: We heard from small employers the other day that they may have to train people, and their turnover rate is quite high. We have heard about anywhere from 120 hours of training to, as you mentioned this morning, 160. I just wondered, as an educator, what the cost might be for the educational component of that. I think an employer knows how much it costs him to send one of his employees away, as far as what he is being paid, either in salary or on an hourly basis, but have you any idea what it might cost to educate these people?

Mr Richardson: I will give you an estimated guess and an educated guess. Let's even take it to the low side. Let's take the 120 hours, which is lower than the estimate suggested to us that it may reach 160 hours. If they study for 40 hours a week, 120 hours is approximately three weeks, and I have yet to see a course that stayed on target for 40 hours. They tend to run more at the 35 hours a week or seven hours a day.

You are looking at four weeks' work and you are looking at four weeks of a person at \$50,000 a year, so you are looking at a person at \$1,000 a week for four weeks. To be honest with you, that would not be full value. We would put a replacement teacher in place, probably at a salary lower than that, but I am just grossing it up to be as honest as possible about this. So there is a considerable cost if we had to send 32 people on that at \$4,000 each, and we do not know how often we would have to renew that committee.

We also would have to have management on that program and it would be a cost, so we are looking at a considerable amount of money for a small board. Perth county is a small board, like

many of the boards in southwestern Ontario, with the exception of large centres like Waterloo and London.

1100

The Chair: Thank you very much for your presentation to the committee.

Mr Richardson: Thank you very much for receiving us.

The Chair: The next presentation is from the Stratford and District Labour Council. We welcome you to the committee this morning and we look forward to your presentation. If you will introduce yourselves, we can proceed.

STRATFORD AND DISTRICT LABOUR COUNCIL

Ms Goodhew: My name is Cathy Goodhew. I am the vice-president of the Stratford and District Labour Council and a member of the health and safety committee for that council.

Mr Dunn: I am Michael Dunn, president of the Stratford and District Labour Council. Thank you for the opportunity to be able to appear today.

Ms Goodhew: I wish to thank the committee for allowing me the time to present today the concerns of workers in our area on the issue of occupational health and safety.

I am here representing the Stratford and District Labour Council. We represent approximately 5,000 workers in our area. We are concerned with and fight injustices on behalf of our members as well as workers in general in our area and across the province.

Occupational health and safety is an issue that we have been involved in. We facilitate assistance to workers by way of training and advice. The reason I am here today is that the message is clear from our affiliates. The message is that even though the act has been in place for a decade, we are still facing difficulties on a daily basis. Our workplaces are not safe, our workers are not all healthy and our recommendations are ignored.

One year ago, when Bill 208 was introduced, we were given hope that we would see change. Although we felt that Bill 208 was lacking in a few areas, we could accept the basic advances it would provide in occupational health and safety. We could accept the fact that there was still room for improvement, and planned to fight for these improvements. We were also more than ready to accept our responsibility under new legislation that would give us the power to have an equal say on matters affecting our safety.

We were not, however, ready to accept the fact that the same government that agreed that our present minimal legislation still allowed tragic occurrences in our workplaces would then take a complete turnaround and totally gut what it had itself presented. I cannot believe that any person would accept the fact that since first reading of Bill 208, at least 340 workers have died on the job. Over the last year, Ontario had a worker killed and 1,800 injured for every working day. Four workers are injured every minute. This means that in the time that I have been given to speak to you today, in the time that I am here before you, 120 workers could be injured on the job.

One of the main areas I would like to stress today is the lack of power workers have to be equal partners in the internal responsibility system. Our present legislation was apparently set so that matters affecting the safety of workers would be dealt with in their workplace. This point was strongly stated in 1987 when the government presented the McKenzie-Laskin report that told us the act could not be enforced in the same way that the Highway Traffic Act or the Criminal Code because it was based on the internal responsibility system.

This report answered whether there should be more inspectors to enforce the act or whether we could rely on the internal responsibility system. The question was simply, how do we stop the growing numbers of deaths and injuries in Ontario's workplaces? It did not, however, answer the question of how we enforce the internal responsibility system.

How are workers to play an equal role in their safety when employers have full control and full power? But most of all, how are many of Ontario's workplaces supposed to deal with matters in-house, when the law provided no mechanism for participation or excluded them altogether because of size?

I work for Chrysler Canada in Stratford, Ontario. Until the recent economic slowdown, we had approximately 1,000 employees in our workplace. Our workplace is just one example that proves the internal responsibility system does not work.

Our worker representative has had many frustrating years trying to accomplish safer working conditions for our members. Dangerous situations were present and yet recommendations were still ignored. Our workplace had to be ordered in November 1987 to put in place a system that provided for internal responsibility. Still, after 1987, decisions were made and then

the worker representative was informed by management, or they found out by workers on the line.

Machines were put in place without committee input or inspection. This resulted in machines operating without proper guarding or safety devices. We have had a few of our members get their arms caught in large dielectric presses, and still inadequate precautions were in place. Of course, it was the worker who was blamed. It was not until we could get the ministry inspector to order proper guarding that these workers could work safely.

Committee meetings were virtually nonexistent in our plant. If there were meetings, the agenda was one-sided, as management always chaired the meetings. It got to the point where meetings had to be ordered in 1989, as the committee went for nine months without a meeting. Management was too busy.

Work refusals are another problem. If a worker felt that he was in an unsafe working condition and tried to refuse, he faced many situations that were not following the act. On many occasions they were intimidated or coerced. Our worker member was not made aware of refusals, which is in violation of the act. The ministry provided training on refusals and responsibilities. Our management went through training sessions with Colin Wilson, an area supervisor for the Ministry of Labour. In the fall of 1989, the inspector recommended more training, as the internal responsibility system was still not working in our workplace. The problems persist and nothing is done until an order is issued. Where is the internal responsibility system when you have to have an order for everything that needs to be done?

We also welcome changes to the criteria for refusals. Because of the nature of our work, repetitive strain injuries are our worst problem. Many of our members have not one but two scars on each of their hands or wrists. Surgical operations to relieve repetitive strain injury symptoms are not always successful. They will never be successful for our members, as when they return to work, they are returning to the same conditions that caused the problem. It is sad to hear the people around you talk about not being able to pick up a glass of water to take a drink or not being able to button up their shirts at the end of the day.

We negotiated a joint ergonomic committee three years ago to address the problem. Unfortunately, it took two and a half years to get our management to take this committee seriously and

to get into action. Unfortunately, we had to bargain for relief for our workers because the act did not allow them to refuse an activity that was harming them. I urge you to recommend that "activity" remains as part of the criteria for refusal under Bill 208. We are not in any way the only workplace that has a problem with an activity that harms its workers.

I am an instructor with the Workers' Health and Safety Centre. I have had plenty of opportunity to discuss situations in different workplaces, in both the private and public sectors. What I hear from people who take these courses is alarming. Part of the instruction that I have done has been in our community college. In this course we have both management and workers attend, and the story is always the same. They are frustrated because they cannot get action on safety concerns. The only way they can get action is by calling in the ministry. As a rule, upper management does not place priority on safety. The internal responsibility system does not work unless, on a rare occasion, upper management decides that it will allow it to.

Another problem that has become obvious to me is that there is a serious lack of education or training in occupational health and safety, especially in smaller or unorganized workplaces. The best part of Bill 208 is, in fact, the certification which provides training of a committee member from both sides. Part of the certification also gives each side equal power to shut down operations that are unsafe. However, if the management member is allowed to start up operations without an agreement from both certified members, then this amendment to the present act would be totally useless. Companies fear this shared power and are screaming loudly that it would be abused. Of course, we heard the same arguments when the right to refuse was first introduced. This right has not been abused, and many unsafe conditions have been corrected as a result of this right.

The right of the worker certified member to shut down operations should also extend to situations where the workers' health or safety is at risk. At present, Bill 208 only allows for a shutdown where there is a clear violation of the act. There are many problems that arise in the workplace that are not covered by the act or its regulations. It will never be possible to cover every process or every operation in every single workplace. If the reason-to-believe and reasonable grounds tests applied to shutdowns, as they presently apply to refusals, then there would be very little chance of an unnecessary shutdown.

If a worker can be given the right to shut down an operation for quality reasons, as is very common in a lot of workplaces, then is it not only fair that a worker's life is given as much consideration as the quality of a product? It should also be the workers or the union that makes a decision as to who will be certified and will represent them in this capacity. For management to decide which worker committee member is to be certified is as backwards as the workers deciding which management committee member would be certified. Somehow that has never been proposed.

1110

Let me backtrack a little to express some of the concerns that have come up in the classes at the college.

1. The workplace changes constantly. Often committee members miss situations because they could not inspect the workplace often enough. If Bill 208 amends the act to read that the total workplace should be inspected at least once a year, then the workplace will be an even riskier place for workers to be.

2. Recommendations never get answered, let alone acted on. The proposed 30-day limit on a response is a start; however, if there is an unsafe condition in a workplace, waiting one month could result in tragedy. One week would give ample time to at least respond. If an extension is needed, as is sometimes required, then it could be granted by agreement of the full committee.

3. All committee meetings should be co-chaired. For too long now discussion at the joint health and safety committee meetings has been limited to that which was considered appropriate by management members. All members should also be given one hour of preparation time—paid. It is a lot simpler for a management member to incorporate preparation time for a meeting into his regular work time than it is for a worker member to prepare on the line.

4. No worker should be assigned to a refused job until the problem is resolved. This practice is so common that it is frightening. Probationary employees or easily intimidated employees are put at risk on unsafe jobs because they are too frightened to stage their own refusal. Supervisors know all too well who these pawns are.

5. Many of the participants did not know what designated substances were and they were working with them. Through the course, they soon realized that their employer is not complying with the regulations for a designated substance. No controls, no assessments, no monitoring, nothing at all to protect the workers from

exposure. We should not have to rely on the chance that these people might decide to take an evening course on their own time.

I would also like to address a few other concerns with Bill 208. These concerns have been raised by the workers in our area.

1. If a full-time, neutral chairperson is added to the agency, then we have strayed away from the idea of labour-management co-operation. Not only are we not working on a totally equal basis, but we are draining moneys from a budget that could otherwise be directed towards training.

2. Good employers and bad employers cannot be separated. A bad employer can be considered good by simply not reporting accidents. A few weeks ago my husband was injured on the job. He had the tip of his thumb ground off by a large sander. He had to stay off the job for two days, which were the last two working days of the week. On the weekend he got a phone call from his co-worker, who was told from his supervisor that he would be paid so that it would not have to be reported. I thought maybe he was mistaken. When he got back to work on Monday morning, the supervisor told him the same thing, and also his paycheque the following week proved it. The incident was not reported to workers' compensation. So I am wondering, are they considered a good employer or a bad employer?

3. All members of the joint committee should come from the workplace. It is only logical that the people who are familiar with the workplace should be committee members. They should be in the workplace when situations arise, where they are needed.

4. All workers affected by a refusal or a stop-work order should be paid full wages. If co-workers will not be paid their wages as a result of an individual's refusal, then that individual is, in a sense, being intimidated from the start to not refuse. The same pressure or stress could be felt by a certified member. This could result in unsafe conditions for not only one but all workers involved.

5. Section 24 of the act should be enforced and violating employers should be prosecuted. Reprisals against an employee are as much a violation as any other contravention of the act and should be handled accordingly.

6. Farm workers are constantly working under unsafe conditions. Not only do they work with machinery that is considered dangerous but they also work with highly toxic chemicals on a daily basis. They also work with these hazardous conditions with no controls. Why would we ever

consider asking farm workers to risk their health? Where is the logic when we say to an individual, "If you choose to go to work on a farm and not in a factory, then the law should not protect your health or your life"?

7. We strongly agree that the penalties for violators should be raised. We can only hope that the larger figures will deter violations of the act. We must, however, have assurance that violators will be prosecuted.

In conclusion, I must restate the disappointment that workers felt when the minister proposed amendments to Bill 208 that were not in the best interests of those at risk. If the Liberal government follows through with these amendments, then it is sending a strong message to Ontario that it is okay for people to get sick or die on the job. We have to stop thinking of the numbers as just numbers. They are not just statistics; they are mothers, fathers, brothers, sisters. They are taxpayers.

During the fourth week of January 1990, I was at the Cami plant in Ingersoll, Ontario. I was instructing a week-long course on occupational health and safety to people from four different plants in the area. It is quite sad that one of the participants who was there to learn about making jobs safer would return home on the last day to find out that his cousin was killed that day on the job. Brian Douglas Skinner, a 23-year-old who had a bright future, was killed on the job on Friday 26 January 1990 in Mitchell, Ontario. Three other workers were also injured in this accident, one critically.

I hope this committee will not recommend Mr Phillips's proposed amendments but will give strong consideration to amendments proposed by labour.

Thank you for giving me the time to present the concerns of workers in our area.

The Chair: Thank you, Ms Goodhew. Mr Riddell has a question.

Mr Riddell: Your indication that you worked for Chrysler has brought to mind two things. First, you are obviously producing a good product, because according to the last consumers' report, the Plymouth Voyager, which I drive, stands up well with the Toyota Camry and the Honda Accord.

Secondly—and I realize that we are hearing extreme cases from both management and labour in our submissions—again, your working for Chrysler brought to mind a comment I heard yesterday from a group representing auto parts manufacturing. This had to do with the right to stop work, I believe, if my memory serves me

correctly. The witness said that the presidents of the Big Three—and he specifically referred to Lee Iacocca—would allow just one such performance and that would be it. In other words, I assume he meant that they would not be long closing their doors and looking for another jurisdiction in which to manufacture these parts.

When you are talking to your employers or when anybody in this audience is taking to their employers, have they ever heard their employers say that if government is going to introduce this kind of legislation, Bill 208, as we are dealing with it now—and by the way, I think you should ignore headlines, which are used to sell papers. I am not driven by the news media and neither should you people be driven by the news media. I am just wondering, do you ever hear your employers say that if they are going to have to face this kind of legislation, they are going to be looking elsewhere to establish their companies and businesses?

[Interruption]

The Chair: Order, please.

Ms Goodhew: I cannot say I have ever heard my employer state that. I cannot even say that I have read it anywhere. The last time I remember hearing them say anything about moving south was due to economic situations that would arise out of free trade. If an employer were to take that stand, that is very unfortunate, because that employer is telling us it is okay to die on the job. "It's okay, Cathy. If you want to make money, if you want a job and you want to pay your mortgage and you want to buy groceries and food for your family, then you have to take a risk." That is what they would be telling you, would they not? "You have to take the risk of injury."

I would have to take the risk of injury, disability or death. If my employer wants me to choose, I want to be alive and I want to be with my family and I will look elsewhere for a job.

1120

Mrs Marland: Cathy, I sat on this committee last year when we toured the province on Bill 162.

[Interruption]

Mrs Marland: That is another popular piece of Liberal legislation, I recognize.

The Chair: Mrs Marland, stop teasing the bears.

Mrs Marland: I wish the bears knew which party I represent.

Mr D. R. Cooke: Do you really, though?

Mrs Marland: No, I am quite happy with it.

I have two questions for you. The first one is the example you gave, which really does not pertain to Bill 208 as much as to Bill 162, of your husband's injury and his being paid and the accident not being reported. From your position with your council, is that a common practice? I think it is pretty significant if it is.

Ms Goodhew: It is a very common practice. I have seen it in my own workplace, only on probationary employees, though, because they would not get away with it with the organized section. I have seen a person who was on probation have his arm broken, and he was told to report to work with a cast on his arm and it was not reported. It was later reported though.

Mrs Marland: Is being paid sort of the encouragement not to report it? Is that the idea?

Ms Goodhew: Yes.

Mrs Marland: The second question I have is on page 6 of your brief. In the first paragraph you say, "If the reason-to-believe and reasonable grounds tests applied to shutdowns as they presently apply to refusals, then there would be very little chance of an unnecessary shutdown." Could you just tell me how reason-to-believe and reasonable grounds work and who interprets them?

Ms Goodhew: The ministry has handed down an interpretation. I cannot quote it word for word, but when you are in a situation where you feel you should refuse an unsafe job, in the first stage you have to have reason to believe. You simply have to believe truly to yourself that this is an unsafe condition. However, when you enter into what I call the second stage of refusal, where the ministry will be called in to settle it, then there is a laid-out test called the reasonable grounds test where you must meet certain criteria to continue your refusal. In other words, it has to be a legitimate refusal before you can continue. Otherwise, you are liable under the law.

Mrs Marland: Does that system, which is open to interpretation, in the existing act work well?

Ms Goodhew: I believe it does.

Mrs Marland: So you do not find a problem with interpretation then. The reason I am asking is that obviously, if this act is going to extend the opportunity with the same ground rules, I want to know whether there is any problem with the ground rules.

Ms Goodhew: I could never say that I feel that the average worker would be familiar with this test. However, if you are in a situation where you

have a certified member attending to the refusal or to the shutdown, which would have to be the situation, then with the training he would be allowed under becoming a certified member, definitely he would become familiar with the reasonable grounds test that would apply.

Mr D. R. Cooke: Thank you, Ms Goodhew. It has been a very poignant presentation. I would be interested in following up Mrs Marland's question with regard to the complicity, I suppose, between worker and employer on not reporting injuries. I too have seen that happen and I know it happens a fair amount in the construction industry. What, in your view, would happen if the worker were to have reported it in any event? I think workers' compensation would probably argue that he should, in those circumstances.

Ms Goodhew: Perhaps an excuse of "Just never got around to it, were too busy, we would have done it next Monday," I do not know.

Mr D. R. Cooke: But in your husband's case, you actually got a paycheque that showed he worked for two days when he was not there. They could hardly say that in those circumstances, could they?

Ms Goodhew: No, they could not.

Mr D. R. Cooke: Do you know of any circumstances where a worker has tried to report, perhaps over the objections of the employer?

Ms Goodhew: Not yet.

Mr D. R. Cooke: It might be interesting to try it.

Mr Wiseman: Could I just have a supplementary on that? I wondered, where you mentioned that one person broke his arm, he was being paid his regular wage or salary and it was not reported but it was later on, I have not had much to do with that, but each time is it not the responsibility of the worker to tell the doctor who set that arm that he was injured on the job, and then that doctor sends a report to the Workers' Compensation Board as well as to the employer?

If the employer never filled it out, then I would really question whether or not the doctor would, because for anything I have had to do and any cases I have looked into, the doctor sends a report in as well. I just cannot understand how that would go on, because they ask for both those reports. In my opinion, a doctor is not going to set an arm or do anything major without saying, "How did you do this?" and fill out the form—I forgot the number of the form—and send it in. I would think that the WCB would pick up the employer through the doctor's report.

Ms Goodhew: I have not had much to do with workers' compensation, not being on it anyway in our workplace, but when the person is sent to the hospital and then returns to work, he returns with the forms and the forms are dealt with from the personnel office. It is not until the reports come in later on and the two-week assessments or whatever are—

Mr Wiseman: What I have found, when there is a breakdown in the payments going out to the injured worker, is that either the company never sent in the report and the doctor did, or the company sent it in and did not have the doctor's report. There is one or the other. Then they come to me and I get on the phone and see where the breakdown occurred. That is the only thing. I do not want to get into an argument, but in anything I have done as a member, I cannot honestly see how that would happen.

The Chair: Mr Wiseman, I am sorry to interrupt, but I do not think we should pursue this, which is basically a WCB question, much further.

Mr Wiseman: No, but it was an example and I just wondered how it would happen.

The Chair: Yes, I know. Would you give Mr Mackenzie time for a final question?

Mr Wiseman: Yes.

Mr Mackenzie: I am going to withdraw. I was going to cover the same topic.

The Chair: Okay. Ms Goodhew and Mr Dunn, thank you for your presentation this morning. We appreciate it.

The next presentation is from the Ontario Electrical League. Is Mr Gosen here? Mr Gosen, if you will make yourself comfortable, we are in your hands for the next 30 minutes.

1130

ONTARIO ELECTRICAL LEAGUE

Mr Gosen: On behalf of the Ontario Electrical League and the contractor members of the league, I would like to thank all of you for giving me an opportunity to make this presentation today. The Ontario Electrical League is an association which represents all facets of the industry. We have manufacturers, distributors, Ontario Hydro, the Municipal Electric Association, as well as contractors. Our contractors are represented through a network of 45 chapters throughout the province and they include over 3,000 members, most of whom are small non-union electrical contractors owning their own businesses.

We have a number of concerns regarding Bill 208 and in the presentation which is before you, you will see what some of those are. But I would just like to touch on the areas that we are particularly concerned about. One is that we think legislation cannot replace common sense. I will talk to that a little more later.

Another concern we have with Bill 208 is that it will increase the cost and complexity of doing business here in Ontario. That again is a concern of ours. Another item which I hope your committee will consider is that the present legislation, the occupational health and safety program, the workers' compensation, especially the rebate program and the Construction Safety Association of Ontario are all doing a pretty good job.

I know, since the rebate program came into effect from workers' compensation, there are no company owners anywhere who are not aware of the benefits to them of running a safe operation and gaining that rebate every year. We certainly are and I know our members are.

The Construction Safety Association of Ontario, I think, has done an excellent job of implementing WHMIS legislation, which would indicate that you have a good organization there. Maybe you could utilize them more instead of usurping their powers with some of the legislation that exists in Bill 208. I am particularly concerned that under Bill 208 you are creating a new bureaucracy that forces 50 per cent management of the construction safety association by union officials. That concerns us.

Even though we are all interested in working towards improved safety within our industry, we have not done that bad a job. If you look in your Construction Safety in Ontario, a Ministry of Labour booklet that was released in August last year, it says, "In all probability, Ontario has the best construction safety record in the country, measured in LTIs,"—that is, lost-time injuries—"per hundred workers at risk over the 13-year measurement period."

It is interesting to note that, internationally, Ontario's record also compares favourably. According to the Construction Safety Association of Ontario figures, in 1986 Ontario's LTI rate per hundred full-time workers was 5.4 compared to 6.9 in Sweden, 9.9 in the United States and 12.4 in France. So the existing programs have been effective. We are all in agreement that there can still be improvements made, but we are concerned about the effect that Bill 208 would have.

Now, I know you have probably seen a lot of these presentations, and we can go through this one, but I am not a presenter and I am not a politician. I am an electrician. What I would really like to do is just give you a couple of examples of the kind of thing we run into out there on the job sites and possibly make my point that way.

To give you an example, last summer we were working on a project up at the University of Waterloo and there was a siding installer. It was a Monday morning. He was a young fellow and he was not paying attention to what he was doing and he fell off a scaffold. I saw the scaffold; it was an excellent scaffold. It was well set up, it had safety rails, it was a safe scaffold. He just was not paying attention.

Now, in reading through your Ministry of Labour handbook here, I find out that the largest majority of accidents occur to people under 25 years of age on Monday morning. So why not pass legislation that says anybody under 25 cannot work and you cannot work Monday mornings? Now, that does not make a lot of sense, but neither does Bill 208. Some things you cannot address with legislation. You can maybe improve worker training, but that is a pretty tough one to hang on the backs of the employers.

Another example, and you will have to forgive me if these are kind of basic: This summer we were also really busy, as were a lot of construction companies, and we were having a lot of trouble finding good people. Good qualified electricians are hard to find and it is especially difficult because of the three-to-one journeyman-to-apprenticeship ratio that we have to work under, but that is another issue.

At any rate, this guy came in, he was qualified and we hired him. I was in the process of checking out his references. I was having trouble getting information back from his previous employer. In the meantime he was working for us and he was really badly bent for money, so he asked me for an advance. I gave him \$60 out of my pocket and had him sign a little IOU. That Friday he left the job at noon, and that was confirmed by the site superintendent. We did not know where he went.

I was still working at the shop at eight o'clock that Friday night, as we are prone to do in business, and this guy had not returned yet with my truck. So I started phoning the police departments and, sure enough, at 8:30 I got a call back. He had cracked the truck up. He had been drinking and the truck was in the ditch. That was his last day with us, needless to say.

The interesting thing that came out of that is, the Ministry of Labour was on my case a month later because I deducted that \$60 that I had loaned him, and I had the IOU. I had no right to do that; legislation protected his rights in that case. His previous employers could not tell me that he was a drunk because they had to protect his rights. What really bothered me is I was so grateful that he did not kill anybody out there on the highway with my truck, but I probably would have been responsible and somebody else might have been hurt or killed. But what about their rights?

The point is, there is not an endless supply of rights out there. You take rights away from someone or you give rights to someone and you are taking them away from somebody else. With Bill 208, it gives the ministry inspectors the power or the right of search and seizure of employers' records without the necessity of laying a charge. You are taking rights away from employers, and from that example I have just given you, we are already kind of limited in the amount of rights we have. It is a concern of ours.

The third example I would like to make—and again, forgive me if these are kind of earthy—we have another job on the go in the north end of Waterloo and they have had a real problem there. It is right beside the university, and some of the tradesmen are in the habit of yelling unkind remarks out at the young ladies walking by in the street. They have tried to curb this situation by warning people on the sites. The police have been there and they have warned the general contractor and the superintendent.

The other day I dropped some material off for my guys there, and the same situation all over again. Some guy hangs off the fifth floor and yells some comment that I was really ashamed to hear and I certainly felt sorry for the young lady on the street.

The thing is, with this legislation you are giving every worker the right to shut down a job site and there is really no downside risk to that person in doing so. The thing that concerns me is not the 90 per cent or the 95 per cent of the workers who are responsible, who will follow their instruction, who work in a safe manner, who are professional tradespeople, or good workers, at any rate. Those do not concern me. It is that other five per cent who do not respond to safety facilities that are there or to the instruction they are given, and you are still giving them the right to shut down our jobs and incur a tremendous cost at the same time. I do not think that is fair.

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When we talk about cost and the cost of shutting down a job site, I am also concerned with the cost of generating a new bureaucracy and then giving it the power to increase its budget by 10 per cent per year entirely at employers' expense. One of the things you will see in my presentation there is a little graph. It is on the second-last page. I do not have this backed up by the Harvard Business School or anything. I picked this one up when I took statistics 20 years ago. But if you look at that, you will see that as we talk about the degree of safety, there is no excuse for us, as an industry, to be operating in the middle of that chart if we can, with only a slight additional expense or a little more effort, be operating at the end.

I am concerned that with something like Bill 208 and the changes that are proposed, you are at the point now where you are considerably increasing the cost of doing business without the potential for any real increase in safety.

If Bill 208 was written with the sole objective of improving safety in the workplace, then I would have to applaud the effort, but I really feel you have missed the mark. On the other hand, if it was driven, influenced and written by the Ministry of Labour to increase its control of the workplace under the disguise of safety, then I think it stinks. You people have to make that decision. We—some of my friendly contractors who have joined me here today—have to live with it.

I have spent my entire working life in construction and, God willing, I would like to spend the rest of my life in it as well. I do not want to see our people hurt and I am willing to work towards improving safety whenever I can. But we do not want our industry crippled with costly, unnecessary legislation and overregulation in the form of Bill 208. Any questions?

The Chair: Yes, there are. Thank you for your presentation.

Mr Riddell: I am going to ask you the same question that I asked Cathy Goodhew, but let me preface my question by saying that in my riding in the town of Bayfield, there was a person who ran a very good electrical business, and it came as quite a shock to everybody when he sold out and headed south. I asked him why.

He said: "Riddell, I'll tell you why. With all your government reform, pay equity, employer's health tax, the free trade agreement which the provincial Tories supported, is it just coincidental that we had as much unemployment in 1989 as we had in 1982? And now the proposed goods

and services tax and your Bill 208. I'm going to tell you, Riddell, enough is enough." He just pulled up stakes and he went south.

We are hearing submissions from employers. I indicated the comments that we heard yesterday about a second stop-work order. Well, there would not be a second stop-work. If somebody shut the plant down, there would not be a second such performance, because they would be gone. Do you think these are just idle threats or do you think there is sincerity in what some of the businesses are telling us regarding the various reform programs that we are bringing into effect, including Bill 208?

Mr Gosen: I have heard this argument that if an employee were to shut a job down he would be fired and that is why there is a reluctance to do that. I suppose that will always be a good argument, but I have not seen that happen. I think some employees tend to create a lot more problems than others and that might be one way in which you would see it, but on a construction job site, unsafe situations should be brought forward.

I know calls have been made to the Ministry of Labour. Their inspectors have come immediately and situations has been given the immediate proper attention. I know of no case where anyone has ever lost a job over that. So as far as the construction industry goes, which is the only one I know, I think the workers already have the full right to bring attention to any unsafe situation.

Mr Riddell: But you think it is just idle threats when employers are saying, "We can no longer compete with everything that we're having to face, including Bill 208, and therefore we're not going to be around much longer." That is just idle threat, as far as you are concerned. I am talking to you because you are obviously representing the business aspect, the employer.

Mr Gosen: It is really interesting. I guess I have run my own business now for 10 years. I have not been in it long enough that I am ready to give up, but over time you do see a bit of people really getting a little jaundiced towards the amount of legislation and the things they see as roadblocks to their running their business. I have heard people like that. I am not at that point myself. I would prefer not to see the government throw any more stumbling blocks in our way, but sometimes that is just an excuse to retire.

Mr Mackenzie: You start out your presentation with, "Legislation cannot replace common sense." I will skip the next three, and you say, "Present legislation governing occupational health and safety works."

How do you then answer for the fact that we had about 300—one a day—workplace deaths in the last year; that we had 1,820 workplace injuries every working day in 1989; that since 1979 serious lost-time claims have increased more than 30 per cent; since 1979, the number of permanent disability claims has increased more than 100 per cent; that 78 per cent of workplaces were violating one or more sections of the Occupational Health and Safety Act; that seven per cent of employers with more than 20 workers had not established a joint committee; that 34 per cent of employers with designated substances but less than 20 workers had not established a joint committee required by the regulations; that 35 per cent of the worker members in joint committees had been selected by the employer in violation of the act? I could go on and on.

Certainly, it is not a record that indicates it is working, and your own employees through their trade organizations, the building trades, have presented some of the strongest briefs before this committee indicating that they are not happy, that we do not have a healthy and safe workplace, that we need this particular legislation.

Why is there such a division between you, as a member of management, and the workers who are involved in the trades, and in the figures, which are not our figures, they are WCB and ministry figures? How can you just blankly present your brief based on the fact that the present legislation is working?

Mr Gosen: Well, you have a pretty good organization there in the form of the Construction Safety Association of Ontario, and just working from the construction safety in Ontario brochure that is before me from the Ontario Ministry of Labour, it would appear that Ontario's record compares favourably with other provinces and other countries. That does not mean that we can still accept the kind of statistics you have just posed, but I think your organizations are in place to continue working towards improvement.

Ministry of Labour inspectors can shut down any job site. In this report, it indicates that since Ministry of Labour inspectors started to visit job sites, there has been a continual and an ongoing improvement in the record of the construction industry.

Some of those statistics you mentioned do not take into account that there has been a lot more activity in construction in the last 10 years, especially in the last couple of years. If you look at the tremendous rise in, say, residential construction, that is an area where you tend to get a lot of untrained people. It is going to be a battle

at any point to maintain safety standards there. I do not think Bill 208 would particularly change that situation. It is a problem that needs to be addressed, but I do not see why Bill 208 would change it.

1150

Mr Mackenzie: Once again, if I can just raise one other question with you, the Industrial Accident Prevention Association has 100 board members from management and 13 from labour. The situation is even worse in the construction safety association. One of the messages that came through loud and clear was that it was not doing an adequate job and was not trusted or accepted as the protection needed by the workers in the trade. I am talking now about the building trades. Can you tell us, for example, how many labour members there are in the construction safety association?

Mr Gosen: I do not have any record of that.

Mr Mackenzie: I think it was three, but I could be mistaken. It was a sizeable board, so really, how do you see that as representing the concerns, the kind of figures, that are obvious? Those are not figures that have been manufactured; they are the actual safety record in the province of Ontario. Workers do not see the CSAO, which was your first, immediate defence, as being their answer. That is why we have had the request for legislation.

Mr Gosen: So as a result of that you now want to give control of the safety system over to the unions.

Mr Mackenzie: The legislation says that it is bipartite, a 50-50 situation, management and labour, and that then the responsibility is there for the two of them to work together and resolve some of the confrontational approaches that we have had. It is the premise of your whole brief that bothers me right off the bat: that the current legislation is working. It obviously is not, or we would not have this legislation before us. We would not have had the push since the early 1970s for this kind of legislation.

Mr Gosen: Just somehow there seems to me to be something basically wrong when you have a construction safety agency like the CSAO and you are going to destroy that and try to replace it with a new bureaucracy and expect that to do a better job. I am also concerned that non-union workers are not being included in that process.

Mr Mackenzie: In the construction safety association you obviously have the control there. The workers do not think they do, and they do not

accept it the way you do. I am talking now about on site.

Mr D. R. Cooke: Were you in business in 1979?

Mr Gosen: Yes.

Mr D. R. Cooke: Were you running your own business at that time?

Mr Gosen: Yes, I was.

Mr D. R. Cooke: And do you recall the argument that was being made at that time about the present legislation?

Mr Gosen: I was just trying to keep the bank from closing me down in 1979.

Mr D. R. Cooke: Well, if you were as established then—and I suspect you were not perhaps as established—as you are today, you perhaps, I suspect, would have given exactly the same brief at that time about that legislation. You would have said, “There are always injuries in the workplace and there always will be, and therefore we don’t need to do anything more than we’re doing right now. We do have sufficient legislation in place right now.” There was a great deal of hue and cry from the business sector at that time about any controls, and they all said they would not survive, but they did, and you did, and you are no longer trying to keep the bank from the door, are you?

Mr Gosen: No, and I am grateful for that. I am not saying that there is no room for improvement in the industry. I am saying that I think the agencies are there that can initiate further improvement without creating a new bureaucracy.

Mr D. R. Cooke: The problem is that since that time, as Mr Mackenzie has pointed out, injuries and deaths in the workplace have increased. Since 1983, injuries in the construction industry have gone from 12,000 a year to over 17,000 a year, and we have to deal with that. I grant you that there are probably some situations where no matter what we do the worker will always end up with an injury, but to the extent that we can educate both sides as to the dangers of the workplace and have these committees in place, surely that is an improvement. Surely your chart here is merely a gut reaction, is it not, to your own sense of the bottom line? There is nothing really serious in that.

Mr Gosen: That was from my statistics class, and beyond that I could not tell you where it came from. But even in manufacturing you can take things to a certain point and beyond that any

improvement is at considerable expense and the improvement is negligible.

Mr D. R. Cooke: But you do not have any statistics to suggest how the expenses are going to go up with this legislation.

Mr Gosen: I know that you are giving this agency the power to increase its budget by 10 per cent per year entirely at the employers' expense.

Mr D. R. Cooke: That is a maximum of 10 per cent a year.

Mr Gosen: It sounds more like a blank cheque.

Mr D. R. Cooke: No, no, it is not a blank cheque. It is a maximum that is written into the legislation, which I would, in fact, perhaps worry about in times of inflation. It is simply a lid on the increased money that can go to the council.

Mr Gosen: I am sorry if I gave you the impression that I am not concerned with improving safety in the industry. You are looking at a guy who spent three months in the workers' compensation hospital, and that was not my idea of a good time. I think about that when I look at my people going out to the job sites in the morning, and I would like to do my part to keep things safe. I do not think I am that unique in the industry. You just do not want someone to get hurt. We already have that concern about safety.

Mr D. R. Cooke: No. You strike me as a person who is caring, but at the same time, I think you have far greater fear than you need to have about the procedure we hope to put in place. You are indicating that you were in the workers' compensation hospital yourself. Were you an employer at the time?

Mr Gosen: I was an employee at the time.

Mr D. R. Cooke: I see. So you know from first-hand experience then some of the problems, and you must be aware that a great number of these injuries occur and they could be avoided—I take it, your own.

Mr Gosen: Those are the ones we are concerned about.

Mr D. R. Cooke: Right, so we need to work together.

Mr Gosen: If I can share one last concern here, we are a non-union shop and approximately 70 per cent of the electrical industry is not

unionized. It concerns us that the agency you are proposing to create here will be 50 per cent union influenced, and they will be providing the training for my workers. I do not think that is fair either.

Mr Wiseman: As a small businessman myself, I relate very much to what you have said here this morning and I am glad that you took the time to come out and tell us in down-to-earth fashion. If Jack had asked me the question he asked you, I would have told him that I have heard from many small businessmen, and some large ones too, who are fed up to the gills with all the red tape, both federal and provincial, they have to go through to make a living and to employ all the employees that we do, including all the ones in the room.

[Interruption]

Mr Wiseman: They are paying a good portion of taxes, as well.

Then on top of that, a lot of businessmen do not want to come out here and be harassed or booed, as some are doing this morning. But you have, and I give you full marks for that, and any of the other construction people who are here this morning. Thank you for coming in.

Mr Chairman, I know it is tough to do, but I hope if we have any others representing business, like you said earlier this morning, that they are given the courtesy of being heard. We do not hear any boos from the management end when the unions are up here giving their spiel. I would ask for the same to take place this afternoon and throughout the rest of the hearings.

The Chair: I do not think it needs to be reinforced too much. I think people do understand that when we invite people to come and make a presentation that they do so at our invitation. We want them here. We want to hear the different views on this legislation and I think it is a courtesy to allow people to make their presentations without harassment. I do not think that is asking too much. I think, generally speaking, people have respected that request from the committee and I appreciate that very much.

We are now adjourned until 2 pm. I hope you will all come back.

The committee adjourned at 1200.

AFTERNOON SITTING

The committee resumed at 1402.

The Chair: The standing committee on resources development will come to order for our afternoon session. We have a very full session that will take us right through until 5:30 pm, so we had best get started.

The first presentation of the afternoon is from the Canadian Union of Public Employees. Mr Sutherland, that is you I believe. If you would introduce your colleagues, we can move ahead. For the next 30 minutes we are in your hands.

CANADIAN UNION OF
PUBLIC EMPLOYEES

Mr Sutherland: My name is Joe Sutherland. I am the recording secretary for Local 791 and I am the chairperson of the local's health and safety committee for the city of Kitchener, the inside workers and the Kitchener-Waterloo regional ambulance workers.

With me to my right here is Sheila Standen from CUPE Local 424 in Stratford. Sheila represents the Stratford General Hospital and she is the co-chair of Local 424's health and safety committee. She will speak on behalf of the health care workers. Also present to my left is the president of Local 791, Jim Nelson, and to my immediate right is Michael Dunn. Mike is the president of the central Ontario CUPE district council.

Local 791 of the Canadian Union of Public Employees appreciates the opportunity to appear before the standing committee to address our concerns about Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act. We feel we must make the Liberal government of Ontario understand the tragic background that underlies the need for reform in occupational health and safety.

Since the act came into effect in October 1979, more than 2,500 workers have died on the job in Ontario alone. In the last few years, many on-the-job deaths have been reported in the news media; hundreds got no mention at all. The tragic deaths in Toronto at the Scotiabank building, the air ambulance crash and the death of Kitchener's own fireman should be a sign that there is clearly something very wrong in the occupational health and safety system in this province.

The number of accidents within our own workplace at the corporation of the city of Kitchener in the year 1988 has been the highest

on record and the figures for this past year are not in as yet. Since this report has been written, we balanced it out to 94 days each, 94 and 94, which you will see in a minute.

In 1988, workers' compensation claims for lost-time injuries totalled 117, plus 89 medical aid injuries. We have that down to 94 and 94, which is still not really good. A total of \$384,576.93 was paid out by the Workers' Compensation Board for our claims, medical aid costs and pensions granted. The corporation of the city of Kitchener paid a total of \$907,659.18 to the WCB.

In 1988, with an average of 1,076 employees, the city of Kitchener lost 9,439.5 days of absence by employees, that is, an average of 8.77 days per year per employee at a cost of \$1 million to our employer. Some of the causes of these sick days were poor air quality, bad ventilation, strains and working alone.

Our union contracts show that our employer will only discuss or allow articles that are included in the Occupational Health and Safety Act. Will these figures above classify our employer as a poor employer and force him to cover up claims or not report accidents?

Only through constant inspections of the workplace and meetings of the joint health and safety committee have health and safety problems at our workplace started to improve. Why change the act to suit the employer when the only solution is to have both employer and employee work together for a safe workplace?

What Local 791 and the rest of CUPE are interested in is the withdrawal of the government amendments. Although there were flaws in the original proposals, we felt the unions would have accepted Bill 208 as proposed. What we are seeking are the 19 amendments introduced by the Ontario Federation of Labour. These amendments were not drawn up on a whim or a prayer but by people, working people of Ontario, who know what is happening in our workplaces and what is required. Can any member of the present government stand and be recognized by the people of Ontario as a person who knows what is happening in all workplaces?

The Ontario Federation of Labour committee for health and safety has studied the Occupational Health and Safety Act since it came into effect in October 1979. They have trained workers across Ontario along with other major unions as to what is expected in the workplace, and still we

have some 434,000 injuries. It would be a lot more if these people were not trained, yet the government of Ontario has set out to change the Occupational Health and Safety Act to mainly suit the employer.

Why is the present government not listening to the labour movement? Are we getting so strong that the Minister of Labour (Mr Phillips) is nervous, or is he afraid of big business? The workers of Ontario must have more say in health and safety matters. It is our lives that are at stake, not appointed ministers. We must have labour and management share the power in health and safety to make our workplaces as safe as possible. Unions or management cannot do this alone. By working together with trained employees we will make our workplaces safe.

As the bill is written now, a worker certified member can stop work and the management certified member can come along and start it up. This does not make sense. First of all, this worker member and management member must work together on the same joint health and safety committee to ensure a safe workplace. This part of Bill 208 would for ever put a gap between these joint committees, possibly causing them to split apart. We need an amendment that ensures that both certified members agree or an inspector is called in before the stop-work order is cancelled or the area of concern is rectified.

In the present act and in Bill 208, workers who are unable to work because of an individual refusing to work or a stop-work order from either an inspector or a certified member lose pay. We of Local 791 feel that it is the employer's responsibility to provide and maintain safe and healthy conditions and to ensure that all workers get a fair wage. This part of Bill 208 discriminates against workers who refuse to operate unsafe equipment or work in unsafe areas. Bill 208 must ensure that no worker is assigned a refused job until the issue is resolved.

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We need to maintain the Bill 208 sections that provide important steps forward including: joint health and safety committees in every workplace and worker health and safety representatives for all workplaces; require co-chairpersons on the joint committees; require one hour paid preparation time for all joint committee members for each meeting; all medical surveillance requirements to become voluntary; duty on employers to pay costs, including lost time and travel, where a worker undergoes a medical examination required by law; the right to refuse unsafe work will include activity which covers repetitive strain

situations and poor design; require a certified worker and management member in each workplace with special training. When the members are certified they will have the right to shut down an unsafe operation.

These sections, along with the proposed amendments of the Ontario Federation of Labour, will cause Ontario to stand out as a province that cares about its workers and their health.

We must have an internal responsibility system through which labour and management can work together. At present we of Local 791's health and safety committee have been trained by our union representatives in all aspects of health and safety and our safety section at city hall is second to none. We work as a team to prevent accidents in the workplace. Local 791 has paid for its members to go to school on weekends and for full weeks to learn as much as possible about problems in the workplace and how to correct them.

We need the additional rights of Bill 208 and labour's proposed amendments to help us to be able to act to protect ourselves in the workplace. The individual's right to refuse unsafe work is important, but we need an additional right to stop work vested in well-trained representatives to ensure that the internal responsibility system is responsive to the health and safety needs of the workers.

Individual workers have not got the training and may be subject to intimidation in using their rights, but a well-trained certified member of the joint committee can identify any dangerous violations of the act or the regulations that really put workers at risk and will use the right to stop work in an equally responsible manner.

Constant cutbacks in our health care system have caused our health care workers at times to work alone. The recent death of a lady in a group home in Midland, and once again the mention of the air ambulance accident, cause us great concern. These people do not have the right to refuse or stop work. Does the government of Ontario think that these people will act irrationally and close our hospitals or health care units?

Our Premier (Mr Peterson) should stop and think for a moment. It is his government that is closing hospitals and forcing cutbacks, not the working people of Ontario. The hospital workers and others in the health care system must have the right to refuse unsafe work. We need them just as much as a factory or office worker, so why should we force them to put their lives in danger?

I would like to now turn the rest of this over to Sheila Standen, who will report on the health care workers.

Ms Standen: Good afternoon. My name is Sheila Standen, and I am an employee at Stratford General Hospital. I stand before this committee as a member of the Canadian Union of Public Employees in support of the Ontario Federation of Labour and its position on Bill 208.

I am a member of a joint health and safety committee that has been dominated by the employer. Workers were not recognized, we had no input into the agenda, the terms of reference were drawn up and drafted by our employer, and the chairperson of the committee, appointed by management, was involved in discipline of the worker-members in relation to their function on the health and safety committee.

To deal with these problems, CUPE health and safety members, in conjunction with the Ontario Nurses' Association, requested that the advisory branch of the Ministry of Labour come in to assist them in establishing terms of reference and improving the functioning of their committee. This was a long and frustrating process that spanned from February 1988 to November 1989, with the employer stonewalling at every opportunity.

Some of the tactics used by our employer were to have the Ontario Hospital Association write a letter on behalf of them to the Ministry of Labour advisory branch thanking them for their help, stating that the committee was functioning much better and their service was no longer needed, an opinion not shared by the worker-members. That resulted in the workers requesting under subsection 8(14) of the Ontario Occupational Health and Safety Act that the Ministry of Labour empower the advisory service to investigate and correct the function of their health and safety committee.

The employer's response to this was to hire a lawyer to represent it. What resulted from this was a third-party negotiation. Instead of us jointly sitting down and working through our problems with the mediator, we had to deal through a lawyer, and the lawyer with our employer. In November 1989, guidelines and a co-chair were agreed by the parties, but even though we do now have guidelines in place and we do have a co-chair representing us, our concerns are not always addressed because either we have no regulations or the regulations are being ignored.

Workers have no representation on any of the subcommittees, for example, the workplace hazardous materials information system, WHMIS. We have no input into any of the consultants being hired for our health and safety

concerns, and when they arrive in the workplace, we are not afforded the opportunity to speak to them, so our problems are being dealt with at second hand. Even though our guidelines and our regulations state that the health and safety committee be consulted during the developing and implementing of education programs such as WHMIS, this consultation is not occurring.

The internal responsibility system will only work when workers and employer-members respect each other's opinions, listen to each other with open minds, and when recommendations are made to the employer, they are acted on regardless of who initiated them.

Our employer has been classed as a good employer, and therefore we have not had an inspection from the Ministry of Labour for almost three years. When the ministry inspector did do an internal responsibility system review in July 1989, a total of 29 orders were included in a detailed inspector report, which I have included in my brief. When he wrote these orders, some of these orders involved asbestos and inspection, sampling and repair of friable materials. This was an issue that the worker-members had been addressing to our employer since April with no response, but because the workers had threatened to contact the Ministry of Labour the employer had hired a consultant.

Based on the information that the consultant had provided to the employer, the employer chose not to comply with the asbestos orders. Consequently, when the inspector returned for his follow-up visit, several of these orders were found in noncompliance. Now we have a noncompliance order. The very tragic result of this situation is that workers in my workplace have been exposed to material containing asbestos. The test results from the consultant and the Ministry of Labour confirm that the material that we were concerned about contains one per cent to 50 per cent chrysotile.

Maintenance workers have repaired hot water pipes and steam pipes, and this all requires removal of this asbestos. We also have had workers working in our boiler room, where a friable material has been exposed. We had no asbestos work procedures, which are required by the regulations of the asbestos on construction projects and in the building and repairing operations.

Even after the inspector investigated and wrote orders, they continued to allow workers to work on these pipes, and all the worker-members could do was inform the workers of the health hazards and inform them of their rights, but we

could not stop that work. Even though we knew that they should not be working on those pipes, we could not stop the work and even though the employers knew this work should not go on, they continued to allow it. For this to happen in any workplace is an unforgivable crime, but for this to happen in a health care facility—I ask myself why workers' lives are left in the control of employers such as this.

The assistance and co-operation received from the ministry and its inspector has been second to none, but it is difficult for inspectors to address some of the problems found in a health care facility. Health care facilities have unique problems, such as patient handling, violence or aggressive patients, which the industrial health and safety regulations do not address. It is for this reason that we ask the government to allow us the same privileges as industry, mining and construction and pass the health and safety regulations for health care establishments already in draft form.

But not only do health care facilities need our own regulations, we need the right to refuse unsafe work. Due to government cutbacks in funding, workers are forced to work in unsafe situations.

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Emergency room staff often deal with the intoxicated or people on drugs. In my workplace we have one nursing staff that works from 11 pm until 7 am. Patients gain access by ringing a buzzer which alerts the switchboard operator that there is someone at the door. She releases the lock automatically and rings a buzzer alerting the night nurse that there is somebody in the waiting area. If this night nurse requires assistance, she must alert the switchboard by a portable phone that is carried at all times. Would you like to deal with aggressive and intoxicated patients in this manner? I think not.

In the past week, on three separate occasions, a male patient has struck a nurse while doing routine night care to this patient. The employer's solution? They have assigned a male attendant to look after this patient instead of a female.

At this time we also have a nurse who in March will have been off work one year. She was injured while assisting another nurse to transfer a patient. The patient grabbed her arm and continually twisted it, with such force that it was pulled right out of its socket. This occurred while the other nurse attempted to pull the patient's hands from her arm, but she also had to support the patient they were transferring. The reason there were two nurses looking after this patient

was because he had a previous history of abusing nurses while they were taking care of him.

Violence can take the form of acts of aggression such as hitting, grabbing, kicking, biting, spitting, verbal abuse and threats of physical violence. It also includes attacks with a weapon, sexual advances and acts involving sexual contact. As health care workers, we are exposed to and are required to deal with such acts of violence by our employer, but he turns a deaf ear to the number of increasing incidents.

Health care workers are left with no protection. We have no health care regulations to deal with patient action. We do not have the right to refuse work when patients are involved. Therefore, we are being forced to commit suicide, as in the case of the recent death in the group home in Midland. A worker should not have to work alone at night, especially in a group home. This was unsafe work that she could not refuse.

You would not find an auto worker lifting a 300-pound engine block, so why are health care workers expected to lift 300-pound patients? In 1989, CUPE Local 424 had 34 overexertions and strains reported. That is one for every 10 employees in CUPE. Twenty-seven of these involved transferring or lifting patients. Since the cutbacks in staff, staffing has been reduced in my workplace by half. There have been no bed cuts, just staff, which results in an increase in the amount of lifting and repositioning done by nurses.

We are not irrational and we are not irresponsible, so why are we forced to put ourselves at risk of injury because of understaffing and overloaded workloads? The right to refuse should be extended to all workers, including health care workers. The government cutbacks have put us at risk. The government should allow us to have a tool to fight this risk.

We have the right to work in a healthy and safe environment with an equal partnership in all decisions being made in regard to our health and safety. It is for this reason that I support the following amendments:

1. All workers must have a right to refuse and a right to shut down unsafe work, including health care workers, firefighters, correctional officers and police, and expanded to include reasonable grounds to believe in immediate dangers that may not be violations of the law or the regulations.

2. Certified workers must have the right to investigate all complaints.

3. Clarification that management cannot start up jobs that have been shut down by certified

members without joint agreement of both the certified members, or an inspector has deemed the work safe.

4. Worker members on the joint committee shall be able to bring their own technical advisers into the workplace.

5. Civil or administrative penalties issued immediately by inspectors in the workplace should be provided for in the act.

6. Clarification that the union or workers will select their own certified member.

If the amendments to the Occupational Health and Safety Act are not followed through with, including the suggested amendments by the Ontario Federation of Labour, then you, the government, are asking workers to put their lives on the line just to earn a livelihood.

The Chair: Thank you. We only have about five minutes left. We have Mr Mackenzie, Mr Dietsch and Mrs Marland, so I will ask them to keep that in mind.

Mr Mackenzie: First, I would like to congratulate you on the brief which I think makes as good a case as we have had why public service workers should be totally included in this legislation. I have one question. It is not directly pertaining to your brief, but because you are from CUPE and represent many of the people involved, I would like to ask you about a brief we heard this morning from the Perth County Board of Education, in which it said it was speaking for various of the school unions and other CUPE employees who were on side with them in their opposition to this particular piece of legislation. I do not believe that to be the case, but I am wondering if you know anything about that.

Mr Dunn: We were just as disturbed as you were to hear that this morning, so during the noonhour break I contacted the president of the local, and she said no, they did not have any involvement in it, but she would check with the health and safety person and get back to us, which she did and said: "No. The health and safety person that was at the meeting said it was presented at the meeting, not voted on or endorsed by CUPE Local 1477, which represents the Perth County Board of Education employees."

Mr Dietsch: I want to ask you a question, Joe, with respect to your brief. You mention in your brief, with regard to certified members, that the amendment you needed was for certified members to agree that an inspector be called or both certified members from management and labour to be present on the site before reinstitution of the machine or whatever the unsafe work situation

was. I am curious as to your viewpoint. Would it be the same on the other side, then, when you shut down? Would it be advisable that both people be involved in the shutdown of the site?

Mr Sutherland: Definitely.

Mr Dietsch: I guess reversing where you are coming from on this position.

Mr Sutherland: No, it is definitely. If we have a joint health and safety committee and two certified members, they have to work together.

Mr Dietsch: Right.

Mr Sutherland: There is no other way around it. You cannot just have one guy shut it down and the other guy walk in and say: "No. That's okay. Run it." I am a printer by trade. If my machine is not working and I refuse to work it and I notify my other fellow employees and they refuse to work it, and the certified member from management would come in and did that, we would be out on the street, because I would not put up with stuff like that. That is not the way to run a business or a workplace. You have to work together or you do not work at all.

Mr Dietsch: Basically, you support a stronger partnership in the operation of the workplace.

Mr Sutherland: Definitely. That is the way we are working right now, and that is the way I want it for all workplaces.

Mrs Marland: Sheila, you gave an example of where there was a disciplining of workers because of their involvement on worker safety committees. Could you elaborate a little on that.

Ms Standen: That was a personal experience. When we were trying to get these guidelines in place and get the functioning of the committee to work better, we had a health and safety meeting of which my supervisor was aware, but at that time we had a time limit of an hour and a half on the meetings. Because we had the ministry official there and also our national health and safety representative, the meeting took about three and a half hours instead of the normal hour or hour and a half.

When I returned to work I found the department I work in empty. The supervisor had gone home. I reported to the supervisor on duty at that time, the nursing co-ordinator, and explained to her I would have to work overtime to complete my job, to which she said, "Go ahead and do it." When I returned to work the next morning, I spoke to my supervisor who reprimanded me for remaining in the meeting.

We had quite a discussion over it and when it was all over, she said, fine, this would not go any further, that she had been satisfied with her

answer. But she went to speak to the chairperson of the committee and asked if she could be notified if the meeting was going to take longer than an hour and a half. That chairperson then went to the director of nursing and I was called down to the office to make myself accountable for staying in the meeting for the three and a half hours.

That is not everything, though. I mentioned in my brief that we had threatened to call the ministry because of the asbestos problem, and I had drafted a letter which was cosigned by all the worker members. I received a letter from the chairperson saying I had not addressed my concern with my supervisor and to do that first. It was not a concern that even regarded my supervisor; it was a concern that regarded the whole hospital. I stated that I would not be doing that, that I wanted an answer to the letter in the amount of time I had allowed.

I then got called back into the director of nursing's office to make myself accountable for the letter I had written, and I had to explain why I was concerned. This has occurred several times. We get called into the office. This was addressed numerous times. Asbestos was stressed numerous times with the health and safety committee before we drafted this letter, so there was really no need for an explanation. It was just, as far as I am concerned, harassment and intimidation.

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Mrs Marland: Yet this is the same—is it a hospital?

Ms Standen: Yes, it is.

Mrs Marland: Is it the same hospital that had a good employer classification?

Ms Standen: Yes, we did. When the inspector came in and did his internal responsibility review, I asked, "Why has it taken so long for an inspector to be here?" He explained first that there had been a changeover in inspectors and there were not enough inspectors, but that they had been classed as good employers so that there was not a need to be there.

The Chair: I wish we had more time for an exchange with you, but we do not, so thank you very much for your presentation.

The next presentation is from the Canadian Federation of Independent Grocers. While they are getting settled, I should welcome to the committee Herb Epp, who is the MPP for Waterloo North. We welcome him to the committee this afternoon. Gentlemen, we welcome you to the committee as well and we look forward to your presentation. As you know, I

think, for the next 30 minutes we are in your hands.

CANADIAN FEDERATION OF INDEPENDENT GROCERS

Mr Wilshaw: My name is Tony Wilshaw and I am the national president of the Canadian Federation of Independent Grocers. I am pleased to be joined by my colleagues, on my right by John Donaldson, who is the national chairman of the Canadian Federation of Independent Grocers and a supermarket owner from Stratford, and on my left by Ted Smith, who is chairman of the Ontario provincial committee and is a store owner from Listowel, Ontario.

On behalf of the Canadian Federation of Independent Grocers, we appreciate this opportunity to present our federation's point of view with regard to Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

Our organization was founded in 1962 and represents the interests of 1,500 independent grocery store owners in Ontario. Their businesses range in size from small mom-and-pop operations employing three or four people to 40,000 square foot supermarkets with well over 100 employees.

Some will carry familiar franchise names such as IGA, Valu Mart, Mr Grocer and Foodland, and others will use the owner's name over the door, such as Calbecks. Some of the stores operate with unionized labour, but it is fair to say that the vast majority are nonunionized.

First of all, let me say that all independent grocers are vitally concerned with safety in the workplace. Our organization works very closely with the Industrial Accident Prevention Association in support of its programs. Indeed, we have donated them exhibit space at our Grocery Showcase Canada, a national industry trade show that is owned by our organization, and we are active participants in the affairs of rate group 931 which consists of the retail food industry.

Our concern for safety stems not only from a genuine concern about the individuals who are employed by our members, but we know very well that it makes good business sense. After all, small business cannot afford to lose the services of valued employees due to industrial injury. Furthermore, the present costs of workers' compensation levies, at three per cent a payroll, are particularly onerous.

In fact our rate group will be facing a 15 per cent increase in premiums for 1990, influenced in large part by the substantial claims for

workers' compensation made by employees of the large chain grocery stores. An interesting point to note is that the evidence within our rate group would suggest the safety record of the smaller grocery employees is far superior to that of the large chains.

This would strongly support the view we have that the closer working relationship between owner-operator of a small business translates directly to improved safety in the workplace. This is certainly true as far as the retail food industry is concerned.

It is with this background that we would like to present our thoughts with regard to Bill 208. We know that MPPs and the minister have received numerous suggestions for amendments, and also that the minister has acknowledged that some changes must be made if Bill 208 is to have the commitment from all parties necessary to make the system work effectively. This is encouraging but we are disturbed that the minister is not yet firmly committed to the needed changes, but has instead only placed these as items that need to be addressed before your standing committee as proposed amendments for consideration.

The lack of a firm commitment to change certain offensive parts of the bill by the Minister of Labour (Mr Phillips) made it imperative that we personally appear before your committee today. No doubt we will go over some ground already covered by other delegations, but hopefully our comments will reinforce a deep concern held by a wide number of people in the province about certain aspects of Bill 208.

First of all, we would like to deal with the makeup of the Workplace Health and Safety Agency. It is our understanding that the 14 person board will consist of 7 management and 7 labour representatives drawn exclusively from union employees. In view of the fact that 70 per cent of the Ontario workforce is nonunionized, surely they are entitled to hold labour seats on this board proportionate to their representation in the workforce. It has been suggested that it would be hard to find nonunionized labour representatives with the necessary interests and skills to sit on this board. This is absolute nonsense and we have no doubt that associations such as ours can identify outstanding individuals from the nonunionized labour force.

Furthermore, the suggestion by the Minister of Labour made upon second reading of Bill 208 that a small business advisory committee may be created to advise the board seems designed to position small business in a second class ghetto. This completely ignores the importance of small

business as an employer and job creator in the province of Ontario. Small business deserves to be represented at both the owner and employee level on the 14 person board of this important new Workplace Health and Safety Agency.

Our next major concern relates to the stop-work provisions and an individual's right to refuse work activity. Again, we understand that the minister has proposed curbing the draconian power given in the original bill to the certified worker representative to stop work. We do not, however, agree with the suggestion that the right to work now rest with two health and safety committee members, one representing labour and the other from management. This would seem to us to be an exercise in stalemate, designed to increase conflict between owner and employees. We would therefore recommend deletion of the unilateral power to stop work. Failing this, some liability for financial losses must be placed on the worker representative in the event of unjustified work stoppages.

At the same time, we fully support the individual's right to refuse to undertake unsafe work. Greater clarification is, however, required on what exactly constitutes an unsafe work situation. Standards must be set by the Ministry of Labour with regard to lifting heavy objects or repetitive motion so that all parties operate from a firmly defined base.

Perhaps one of the greatest concerns faced by small business under the requirements of Bill 208 is the requirement for mandatory elections of designated health and safety representatives. It seems to us totally inappropriate to require small businesses with less than 20 employees to elect a health and safety representative with owners being refused any participation in this election process.

In the first instance, we believe the requirements of Bill 208 should not be applied to small businesses with less than 20 employees. The paper burden of filing safety plans and inspection reports, along with the need to train health and safety representatives, would be particularly onerous on small business.

Furthermore, with frequent staff turnover in the retail food industry, we could well find ourselves incurring significant annual training costs on an ongoing basis. Also, we anticipate some small businesses may not find an employee willing to take on the health and safety position. What is an employer expected to do in this situation? In our own office, for instance, we have eight employees; five who would be termed to be management and three secretarial. Are we

expected to hold an election among these three employees? Indeed, in reviewing this possibility with them, all have indicated they have no interest in serving in a health and safety capacity.

Along with our proposal that businesses with fewer than 20 employees be exempted from Bill 208, we would most strongly favour management being given the right to appoint a health and safety committee, particularly for nonunionized business.

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In conclusion, we want to reiterate that the Canadian Federation of Independent Grocers shares the government's general goal of providing a safe work environment. We agree with the Ministry of Labour that this is best accomplished through improved education and training, and by encouraging the co-operation and involvement of all workplace parties.

We are concerned that certain provisions of Bill 208 will serve to place employees and management in a confrontational position when the emphasis should be on co-operation. We therefore hope that the committee will take into consideration the points we have raised, which we feel are most relevant to the positions of thousands of small retail businesses throughout this province. At present, this bill seems very much shaped by the province's perceived safety needs to control large industrial employers and has little relevance to the requirements for the small business retail sector.

Thank you for this opportunity to present our views.

Mr Dietsch: I am intrigued with a couple of views that you have with regard to, number one, the reading that you have on page 7 and the requirement for mandatory elections of designated health and safety representatives. It simply says that there should be a mandatory selection, quite true, in terms of making sure that committees are made up of equal parts, whether they be nonunionized employees or unionized employees and 50 per cent management.

I guess I am concerned about the operation, if you will, in terms of those individuals in the workplace having an opportunity to select among their peers people whom they feel are capable of understanding and knowing what workplace safety and hazards are composed of. I find your suggestion quite awkward, that management should be eligible to choose those whom it wishes. I would like your comments on that point.

Mr Wilshaw: I emphasize that while the present requirements may be appropriate to large

business—we would have no argument with that—in a small business, particularly where we have quite a high turnover, we feel the appointment process rather than the election process would be much more appropriate.

Mr Dietsch: We have had some individuals come before us who do have a reasonably large turnover in their particular businesses, the fast food chains and those kinds of industries. Maybe your part-time staff has a large turnover; I do not know. In our community, the grocery store has maintained itself more with regulars on a fairly constant basis.

I want to ask you about a comment that an earlier presenter made with respect to joint participation and joint co-operation and the need for dovetailing, if you will, the workers and the management together to wrestle with the particular safety issues and health issues they are faced with on the workplace floor. Do you support the concept of a stronger participation between workers and employers?

Mr Wilshaw: I will ask Mr Donaldson to address that, as a store owner.

Mr Donaldson: In our particular situation, management of departments works very closely with the employees in that department to see that everything is run in a smooth and orderly fashion. If it is not run in an orderly fashion at the back of the store, you can recognize it at the front of the store and it disturbs the customers.

Mr Dietsch: Are you telling me that you agree with the stronger joint participation between your employees and you, as the manager, or your supervisors?

Mr Donaldson: We do have strong joint participation between the supervision or the management of the store and the staff.

Mr Dietsch: Have you had any accidents or injuries in your workplace?

Mr Donaldson: Only minor accidents. We have not had a lost-labour accident in over two and a half years.

Mr Dietsch: The operation sounds to me like a reasonably good one. I guess I am interested to know how you feel this bill will change that operation. If you agree with, and you have already in your workplace, a stronger working partnership with your employees, and obviously it is working and you have very few accidents or injuries—that is what you are telling me—how do you feel this is going to take away from your work site?

Mr Donaldson: I think it is going to take away when you have to elect someone to be responsi-

ble for workplace safety, when most of the responsible people are already on management. It might end up being a part-time employee who is working only 20 hours a week. We have many good, responsible employees who do work 20 hours a week.

Mr Dietsch: You feel they would have a difficult time choosing among themselves?

Mr Donaldson: Yes, I do.

Mr Dietsch: The other point I would like to make is in reference to the top of page 6 in your brief. You seem to imply that the agency is already a preconceived makeup of individuals from management side. There has been a suggestion by the minister with respect to a small business component committee that would make recommendations to the agency and has not, to my knowledge, said anything about the fact that some small business owners may very well be part of the agency.

Mr Wilshaw: We certainly hope that is the case but it did not appear to be clear from our reading. In fact, the opinion that a small business agency will be set up as a sort of subcommittee was very concerning, because it appeared to us that small business was being shunted on one side from this agency.

Mr Dietsch: My final question is, have you had any working experience in a unionized shop or has it always been in nonunionized?

Mr Donaldson: I have worked in a unionized shop for about 22 years.

Mr Dietsch: Do you see any difference between employees who are unionized, as far as their recognition of health and safety is concerned, as opposed to what you have currently with nonunionized members?

Mr Donaldson: I cannot answer that right off, but I can say that we try to use our employees the same as they were used when I was the manager of a store in a unionized shop.

Mr Dietsch: So you believe in an element of fairness.

Mr Donaldson: Yes, I do.

Mr Mackenzie: As representatives of the Canadian Federation of Independent Grocers, you are obviously in a tough business with the chains. Also, I would think you have to be reasonably perceptive of what is going on. Three things in your brief struck me right off the bat.

First was your reliance on the Industrial Accident Prevention Association. I am wondering if you are aware that has 100 management board members and 13 worker members on it,

and the perception that is there among workers is that it really is not their vehicle or their protection or their baby.

On the comment you make that an association such as yours can identify outstanding individual nonunion labour representatives, is that not open to influence and who in blazes are they going to represent or answer to when management is picking them?

On the third point, your emphasis on the problems, the draconian power as you put it, if workers have the right to refuse, I am wondering if you are not aware that in 1979 that was probably the biggest single argument that was trotted out and used right across this province in opposition to Bill 70 and, in fact, has been proved to be totally nonfactual.

Mr Wilshaw: Let me emphasize that we favour safety. I would certainly hate to leave this room being opposed to any progressive steps that would improve safety. Indeed, I have also stated that in terms of the group 931, the safety record of the small independent grocers is quite outstanding. The problems exist with the larger stores.

In large part, the comments that we are presenting here related to small business and we are suggesting that we have a very good track record right now with owner-operators like Mr Donaldson and Mr Smith working closely with their staff to ensure the safety records are maintained. It is in their interest as well as the employees' that they do that.

1450

Mr Mackenzie: Do you not feel that workers who are not organized would not have the same interests the organized workers would have, and have probably expressed it more through the various health and safety programs the unions are putting on?

Mr Wilshaw: I am sure the interests are identical. I am just suggesting that the makeup of—

Mr Mackenzie: That management could pick them better than somebody else.

Mr Wilshaw: That is not what I said. I said that the interests are identical; that in those stores where a unionized structure does not exist right now, management can be charged with that responsibility and carry it out effectively in appointing an employee to represent health and safety.

The Chair: I neglected earlier to introduce the member for Oakville South (Mr Carrothers), who has joined us for the afternoon session.

Mr Carrothers: I think much of what I wanted to touch on has already been covered, but could we turn back to the agency?

You have indicated that you feel that obviously the perspectives of workers, whether they be in a unionized area or not, would be the same as regards safety. Recognizing that the agency is set up to talk in terms of safety and training and what not, and also realizing that we are talking about a board of 14 or 15 people out of several millions of people who are either involved in management or are workers in the province, I understand the point you are making about much of the workforce not being unionized, but what practical method could be chosen to get people who are not in the unionized workforce on that board and to have, shall we say, a feeling of credibility about their position?

I think the difficulty with suggesting that management propose the names is that they might not be seen to be representing the workers' point of view but perhaps, because management has put them forward, representing management's point of view. Recognizing that we are talking about only 14 people and you have already indicated that the interests are same, can you really come up with a practical way to choose those people? If we did so, would it really make that much difference to the way the board would approach its task, which is safety and training? That is what it is about. It is not about other things in the workforce. It is not making decisions or anything other than what might be proper training courses and who should be certified and how.

Mr Wilshaw: We are anxious to maintain a spirit of co-operation in the selection process. We would hate to see polarization. We believe that within the independent grocery store operation—and I believe the Canadian Federation of Independent Business made a presentation to you and has indicated this—procedures could be placed to find credible people within the society who are concerned about health and who are not part of the labour movement.

Mr Carrothers: Maybe that is just the problem. "The indication is that procedures could be created." I have tried to come up with some that I could think would be practical and I cannot. I am wondering if you have a suggestion that could help us as to what such a procedure might be.

Mr Wilshaw: I would suggest that associations be involved such as the Canadian Federation of Independent Grocers and the CFIB.

Mr Carrothers: I guess the problem I see there is that you are talking about associations of the management side. If the philosophy behind the thing is to have half of one perspective and half of another to sort of give it a feeling of credibility, would not using those associations to choose those workers sort of taint, shall we say, the system?

Mr Wilshaw: The owners would be forced to choose from their nonmanagement ranks. I think they would bring a fairly independent perspective to their position.

Mr Carrothers: I am just wondering if really the only suggestion you have then is to use the management to choose. That is what troubles me, because in the unorganized area there are not really any umbrella groups that you could ask to put forward a few candidates, and people could choose from them.

We are talking about millions of workers here. You are trying to come up with seven names, or really five names if you wanted to do it on the proportions of 70 per cent and 30 per cent that you are talking about. It just seems so difficult to do and I am wondering whether going through that exercise would produce a perspective any different on the board in the first place.

Mr Wilshaw: I am sure it would produce people who have outstanding ability who have chosen, for whatever reason, not to be part of the labour movement. That is not to decry the labour movement at all. It is just to say that in a democracy people have the right to choose where they participate and where they do not. The reality is that 70 per cent of the labour force, and a large number of the people we represent, are not part of the organized labour force, and they have a right to have their views represented.

Mr Fleet: I am having some difficulty understanding the position and I am hoping you can clarify this for me. As I understand it, your position is that the typically nonunionized employees cannot get organized enough to come up with a rep in their local business, but the nonorganized portion of labour can get itself somehow organized enough to come up with a representative group of people who would sit on the agency even though there is no system of accountability. Do I understand the position correctly? Is that what you are saying?

Mr Wilshaw: No, I am afraid that is not really a correct understanding. I think we are saying that certainly where unionized labour exists, representatives are appointed to represent the interests on a broad range of fronts. Here you are

asking for an election to take place on one issue only—albeit a very important issue: safety—but we are concerned that there are no mechanisms within the kind of businesses that we represent to hold these elections. We feel that identification of the individuals who can work well with management in small business is best done by the store owners.

Mr Fleet: You seem to be telling me—I think I understand your position correctly—that you could not have 10 employees get together in a room and come back and tell you who they think best represents their interests. Is that essentially the assertion? That sounds like what it is.

Mr Wilshaw: Clearly that is an approach. We are saying that it is not considered to be the best approach by the members of our organization representing small business.

Let me take it a stage further and talk about our own association office, which would also be caught up in this bill. For 27 years we have not had one lost-time accident. We have eight employees who will be covered under this bill, only three of whom would perceive themselves not to be management. They are not interested, in this very small operation, in being part of a safety committee. Hence our recommendation, which I hope you will consider most strongly, that there be a size limitation increase to, say, 20 people before these kinds of provisions would take effect.

Mr Fleet: I really would like to get back to the point that I was asking about. You are saying that somehow there is something wrong or that the people are incapable of, say, 10 people getting together in a room and coming back and telling you which one among themselves they think can speak best for them. I really do not understand what the objection would be to that happening.

Mr Wilshaw: We have a very harmonious working relationship in small grocery stores right now. We feel that this could be jeopardized by an election or a popularity contest voting procedure. I am not saying they could not come up with people and maybe with somebody who would be quite good in many cases, but in a small business why should not the store owner have the opportunity to find somebody whom he or she can work with in a compatible way? I am talking small business here; I am not talking large businesses.

Mr Fleet: You can appreciate, though, that in a small business or in any size business the workers might perceive that somebody they select has more credibility than somebody who is

selected for them. The ability of that person to speak up on their behalf would be a more authoritative voice. Surely you can appreciate that this is the very concept of a representative democracy. Now, in almost any country you go to, that is the trend. I would have thought that is a fairly simple concept that the independent grocers, of all people, would have no problem with.

Mr Wilshaw: I guess that will depend essentially on who is selected and whether harmonious—

[Interruption]

The Chair: Order, please. I hate making a speech every time someone is making a presentation whose views are different from those of the majority in the audience. Not only is it completely out of order for a parliamentary committee, but it is unfair, and I would ask you to stop. Go ahead, Mr Wilshaw.

Mr Wilshaw: Thank you, Mr Chairman.

No, I think we are just making the point that small business does have a pretty good relationship with its staff. It is one that it values and really works very hard to foster and we look forward to working with the health and safety representative. From our standpoint, we would rather be the chooser of that person than create an election-type procedure, which has never been held in, particularly, nonunionized businesses before.

The Chair: Mr Wilshaw, Mr Smith, Mr Donaldson, thank you very much for your presentation.

The next presentation is from the Steelworkers South-Central Ontario Area Council.

Mr Rudisuela: My name is Ron Rudisuela. On my left is John Jackson. Gregory Cooper is on my right, and Bryan Young.

The Chair: We welcome you to the committee this afternoon. Whatever part of the next 30 minutes you wish to use is yours.

1500

STEELWORKERS SOUTH-CENTRAL ONTARIO AREA COUNCIL

Mr Rudisuela: My name is Ron Rudisuela. I am the president of the Steelworkers South-Central Ontario Area Council. This council includes 7,000 members representing both blue-collar and white-collar workers in 53 organized units in the geographical area of Cambridge, Kitchener-Waterloo, Guelph, Elmira and Fer-

Our members are employed in such diversified industries as foundries, heavy and light fabricating, wire and cable manufacturing, parts for nuclear reactors, car exhaust systems, mining trucks, water pumps and heaters, taps and faucets, chemicals, enamelled goods, engineering and design and many others too numerous to mention.

They are just a part of the 90,000 members of the United Steelworkers of America in Ontario. Needless to say, as diversified as the products they produce, so too are the workplace hazards they face every day on the job. A few years ago, when Bill 70 was proclaimed as the new Occupational Health and Safety Act, we too thought it was a new beginning, that many health and safety problems would disappear and that workplace deaths and serious injuries would be eliminated, but the needless slaughter continues.

It is imperative that we change this scenario. We cannot wait any longer. Just in the region covered by this area council, three steelworkers have lost their lives on the job over the past year and a half. This is just three too many. I remind you that these are the lives, not the fingers, that have been lost, not the hundreds of major compensation claims that have been filed over the same time period. Surely the time has come to put a stop to these tragedies.

My committee and I have decided to focus on a few major points dealing with Bill 208:

1. **Workplace Health and Safety Agency:** We feel the agency should be a bipartite rather than a tripartite system with a neutral chairperson. We feel that under the bipartite system, both workers and management would have to come to a conclusion on health and safety matters, a system that would ensure that both would be satisfied.

In our view, forcing a so-called neutral chair would be akin to binding arbitration and could set up a situation where either one party would be happy or quite possibly neither would be happy. We see too many flaws in this system of tripartite. The other difficulty we have is coming to grips with the definition of the word "neutral". Where would we find such a person?

2. **Certification:** Under the current Occupational Health and Safety Act, individual workers have the right to refuse what is considered to be unsafe work. If used properly, workers did not have to fear reprisals from management for engaging this section of the act, or so some would have you believe.

The cold reality of the situation is somewhat different. Workers who complained were and are often intimidated by management. When one

worker would refuse, another was simply put in his place without being advised of the work refusal or, if advised, paid no attention, which means the refusal was not reported to the ministry. People then become afraid to complain.

You must realize that the members whom we represent are not all university graduates. In fact quite a number are not even public school graduates. In addition, many are new Canadians and reading and writing English or French are skills they have not yet mastered. Believe me, it takes time to convince these people that they will not lose their jobs by refusing unsafe work. This is where a certified worker would really help this problem. We would not have to rely on individuals to make the decisions for themselves.

We can no longer afford not to make the change. The proof of this statement is that workers are still being killed and seriously maimed on the job.

I would at this time like to introduce my co-presenter, John Jackson, a member of Local 4656 at the Dayton-Walther plant in Guelph. John Jackson is an involved steelworker with extensive training in the health and safety field. He is the union safety representative at the Dayton-Walther foundry in Guelph and had the extremely difficult task of assisting in the investigation on 13 June 1988 into the tragic death of Michael Lawrance, a maintenance worker at the foundry and a close friend of John's.

Mr Jackson: I welcome the opportunity to speak to you today about the death on the job of a friend and co-worker, Michael Lawrance. Mike was a maintenance worker at Dayton-Walther, a father of three preschool children and a husband to a young, dedicated wife and mother. All of this came to an abrupt end at 10 am on 13 June 1988 when Mike was crushed through the chest in a mould jacket machine when it tripped and slammed down on him as he was repairing it.

These jacket presses are used to hold huge moulds together under high pressure while the molten metal is introduced into the mould. The equipment was built with air lines made of high-quality steel pipe, but over the years Dayton-Walther supplied rubber-braided hose for replacement. This resulted in many situations where molten metal would spill when filling a mould and thus burn holes in the rubber lines, a practice the company assured us would stop when it got around to getting new steel pipe for the air lines. They never did. It was this very type

of rubber hose repair that brought Mike Lawrance to the jacket mould machine that day.

The investigation revealed not only that very little, if any, safety training had been provided to Michael Lawrance, but that proper supports for blocking out these presses were taken out of service years earlier, and the company did not provide any blocking-out instruction or devices to be used.

A coroner's inquest was held and the results are attached to this report. I cannot urge you enough to read the attachments, including the numerous Ministry of Labour orders which were written in the seven months following Mike's death, so you may better understand the need to put this legislation on a higher level, a level which Bill 208 as originally proposed attempted to do. It is obvious to us why so much energy has been forthcoming from the manufacturers to water down any certified worker provision. After looking at our report to you today, as human beings, you should too.

Dayton-Walther was charged in the death of Michael Lawrance with negligence in the provision of safe working conditions. They were convicted and assessed a fine of \$15,000. A violation of clause 14(1)(c) of the Occupational Health and Safety Act which results in the death of a worker, upon conviction, should be punishable, it seems to us, by more than a mere fine. If you were negligent with your car to this extent, where would you be?

1510

Two months following Michael Lawrance's death, a young worker at Dayton-Walther Canada Limited—please note it is the same plant—Ken English Jr, was instructed to clean his multimatic vertical lathe 8. Please see the attached Ministry of Labour order. Ken English Jr was not instructed about the high-voltage line, nor was he instructed about a lockout procedure for the electrical supply.

He came in contact with live high voltage and was catapulted 12 to 15 feet through the air around operating equipment and suffered the loss of two fingers on his left hand as a result. This could have just as easily resulted in his death, and this was just two months after Michael Lawrance's death.

Appendix to this report are many documents which verify our accounts. There is no attempt to dramatize to this committee workplace tragedies. It is our hope that we end up with a bipartite agency as well as legislation providing for certified worker representatives with power over

the kind of rampant negligence we as workers experience every day.

I have been asked to give accounts of two other workplace deaths which occurred in our area since the death of Michael Lawrance. First, at International Malleable Iron Co Ltd in Guelph on 6 February 1989, a 47-year-old worker was killed when he became entangled in a mould machine press and was crushed.

Michele Giovinazzo, like so many other workers, suffered from a lack of safety training. This was the single most significant factor causing his death at work. Although the company was found to be clear of any negligence, it became clear, through the investigation, that worker awareness of safety practices and company enforcement of same were sadly lacking.

The attitudes on the shop floor must be brought into line with the spirit of legislation. Workers must see and understand a more prominent posture regarding health and safety rules and enforcement. I feel very strongly that a bipartite agency, as well as workers' representatives with authority to shut down unsafe work, are essential to this end and will serve the cause of promoting much more harmony and co-operation between management and worker in establishing and maintaining a safer workplace, one which is responsive to both parties' needs and requirements under the legislation. The needless death of Michele Giovinazzo illustrates just such a need.

Another industrial death in our area took place on 27 June 1988. This case is particularly upsetting to us and it transcends the politics of health and safety legislation to the point where we as human beings and caring people must do something to address the glaring weaknesses of our present system.

Rather than verbalize on the death of Antonio Fernandes, who at the time of his death was employed at Canada Alloy Castings Ltd in Kitchener and was a member of Local 5699 of the United Steelworkers of America, I think it proper that I read directly from the coroner's explanatory letter that is appended to this brief, for the letter really hits home at a major problem that confronts us, the problem of weakness in the current legislation.

"Coroner's explanatory letter:

"A) General thrust of inquest:

"Industrial safety was the focus of this inquest.

"This young man fell into a vat filled with scalding hot water and sustained burns from the neck down. Evidence showed that this vat of water did not have any safety barrier on one side.

This lack of barrier resulted in an unobstructed fall into the water by the deceased. There had been no barrier there for the last 15 years and it was not recognized as a danger by plant workers nor was it noticed by the Ministry of Labour officials on multiple (at least seven) inspections of the plant in the preceding five years. Indeed, three months before this accident, another employee slipped and partially fell into the tank. No injury was sustained since the water was cool at that time.

"Shortly after the fatal accident, on orders of the Ministry of Labour, a new fixed iron rail guard was installed on all sides of the hot water tank."

A partial fall three months prior to the fatality did not set off any bells or alert anyone to the obvious danger of the open quench tank. No barriers for 15 years, in spite of seven inspections of the facility by ministry inspectors in the last five years, surely points to the need for worker acting for worker to fill this void. This was clearly a fatality that should not have happened.

The recommendations flowing from the inquest are equally revealing, and once again, I quote from that report:

"Recommendation 1:

"(i) Written safety manual—no written instructions exist for most potentially hazardous jobs in plant—most instruction is 'on the job.'

"(ii) Feedback system—evidence showed that several 'near-miss' accidents had occurred and went unreported, including a previous fall into the water vat.

"(iii) Re-enforcement safety system—there was no ongoing system in plant to encourage safety and prevention.

"(iv) Safety training program—there is no such program. Current health and safety committee did not seem too organized or aggressive.

"Recommendation 2: Regarding notice to other companies—an excellent idea. There are at least 30 to 50 similar quench tanks in the province. They are located in (i) foundries and (ii) heat treating plants. The chief coroner's office could issue a bulletin to such industries—a common trade publication is The American Foundry Association.

"Recommendation 3: Regarding Ministry of Labour hazard alert. There are 144 Ministry of Labour inspectors in the province. They routinely visit many similar foundries. They can easily be instructed to inspect all cooling quench tanks.

"Recommendation 4: Regarding tank cover. The tank was left open with scalding water

present. The jury's suggestion of putting a safety cover over it is quite reasonable.

"Recommendation 5: Regarding unsupported footing. The deceased person fell because he lost his footing on a soft flooring type of material. This material, a heat insulator, was unsupported and thus easily gave way when a labourer stepped on it."

It almost seems that the only people with common sense are those that sit on coroners' juries. Why is it that it takes a death to point out so many obvious wrongs?

Mr Rudisuela: In summary, our area council hopes our message, like so many others you have heard, gets serious consideration, for it is genuine concern for the lack of attention to safety resulting in serious injury, death and family destruction which brings us here. You are the only people whose recommendations will mean anything to us.

We implore you to let your humanity and conscience be your guide. We reject the idea that a certified worker as originally proposed by Bill 208 would somehow undermine a company's operation and productivity. The fact of the matter is that this would greatly enhance the awareness of workers generally and would elevate and nurture a meaningful relationship between workers and companies.

This theory is reinforced where, in our union, we have experience with certified worker representatives in place. They operate with a high degree of responsibility, not only in terms of safer workplaces but of realization of the need for ongoing production. The mining and manufacturing communities in Ontario are no strangers to this type of arrangement. Our Local 6500 at Inco, Local 5762 at Denison Mines, Local 5417 at Rio Algom Ltd, Continental Can master agreement covering some nine locals, Local 6754 at Vulcan Packaging all have either full-time safety representatives paid by the company or the outright jurisdiction to shut down unsafe work. Since 1964, our locals 5009 and 5068 at Outboard Marine Corp in Peterborough, representing over 2,000 workers, through the 1960s and 1970s have had the right to shut down unsafe work conferred on any one of the standing safety committee members.

Bipartite agency and certified workers have been our focus. It remains important to see Bill 208, as it was originally proposed, be enacted so as to advance the cause of workplace safety awareness and practice. Although we did not feel it went far enough originally, Bill 208 in that form did lend itself to our achieving a high

measure of what management professes and workers constantly fight for: safer workplaces and fewer injuries and deaths.

Our area council, the families of our three recently deceased brothers, our members and their families ask that your attention to our brief bring you understanding of our plight and result in this committee's support for serious and meaningful changes.

I would like to introduce the next speaker, who is Gregory Cooper. He is the chairman of the health and safety committee for the United Steelworkers of America, Local 2469, in Owen Sound.

1520

Mr Cooper: Thank you very much for this opportunity to the members of the panel and to the brothers here who allowed me to sit in on their brief. I have heard it mentioned many times today about the costs that we are living with. The only real costs that matter are the human costs and the human losses, not the financial ones, because if the human ones are lowered the financial ones have to follow. They have to follow because compensation costs drop and productivity goes up and lost hours are not there. So really, if you concentrate on the human cost, you have achieved both purposes.

I have heard a lot of talk today about a neutral chairperson. I do not think anybody could truly be neutral in a situation like that. I do not think that I could be a neutral person in a situation like that. Even though this person would be chosen by both sides, I do not think you would be dealing with a person who could have a truly open mind, because he would be answering to the government of Ontario and the Ministry of Labour, the government of Ontario being a major employer in this province. Therefore, that destroys the balance. You are also dealing with a person who sooner or later has to pull the party line, whatever that may be, because then you are dealing with politics instead of the issues of health and safety. The Liberal government's amendments to Bill 208 have forced us in the labour movement to withdraw our support from the bill.

I am just kind of jumping all over this, so I will try to inform you which page I am on. It is page 3 at the present time, the middle of the page. We in labour feel very strongly about maintaining our programs run by workers for workers. There was a recent Ministry of Labour decision stating the importance of worker-run programs. In the Accuride Ford of Canada decision of 18 January 1989, registration number 00276, in that interpretation of consultation, the ministry states that

workers training other workers is a good principle that, where appropriate, should be encouraged.

If the Ministry of Labour can see the importance of worker-run programs, then how is it that the Liberal amendments have seen to it to gut that system, have seen to it to say, "Now management has to sit on your agencies and you have to sit on management's agencies"? I am quite sure they are not any happier about us sitting on their agencies than we are about them sitting on ours. That is why you have the central committee set up, with co-chairpersons and an equal balance.

Most important was the right to refuse and its surrounding framework. The right to refuse has been in the act for years, but can workers in Ontario truly exercise that right? I can tell you, coming from a relatively small town and a small local, that that right more often than not cannot be exercised due to impending fears of company retaliation. Even though it is in the act that the company cannot do that kind of thing, even though you can explain it to workers over and over again that "You don't have to do that," they are going to do it because the company is able to twist arms. It is able to warp things; it is able to threaten.

They are always going to find somebody, who is either on probation or scared enough for his job because he is not going to be able to go out and find another job like that in a small town, to do the task. So without expanding the right to refuse itself, which Bill 208 sought to do, you do not really have the right to refuse in a small industry like that and in a small town like that.

Also, activities such as lifting and repetitive motion were originally set out to be covered. Since that time the amendments have chosen to exclude ergonomics, the government saying that they could be dealt with better in the workplace. That is just a complete farce. Take it from experience: Companies, especially in small, economically tightly bound communities, do not make major health and safety changes without a lot of arm-twisting. They do not make health and safety changes without your pegging them right down to the act and maybe phoning the ministry, maybe more than once, and getting the inspectors in there.

Also, the workers would only be paid for the first stage of a refusal. If we are to have a true right to refuse, then all affected workers should be paid for all legitimate refusals. To ignore this need leaves us with no real right to refuse,

because it adds economic peer pressure to the pressures put on by the employer.

I see that the only way to bring the enforcement that we need to improve health and safety in Ontario is to move the enforcement from the book to the shop floor through a certified member; to move those laws passed in 1979 from being mere guidelines to truly being laws and holding somebody accountable. If you give us the responsibility, we will share the accountability; if you give us the responsibility, we will share the blame.

To ignore these basic needs is to approve a system that has seen almost 300 lost lives and devastated families in the workplace and 500,000 injuries on the job. As I mentioned, if these numbers are to be reduced, and they must be reduced, we need the additional enforcement of a certified worker.

The government background paper on Bill 208, and you heard it this morning, had eight basic tenets. I am only going to touch on one of them: "2. A genuine improvement can come only from the effective involvement of workers and employers." The operative word here is "effective." I do not know how you can expect us to be effective without expanding our rights to have a certified worker on the shop floor with the workers' best interests at heart. That would be like asking us to effectively fight a forest fire with a water pistol.

I just want to touch once on participatory rights, which again were outlined in the booklet. "Participatory rights, broadly speaking, are those which allow workers a degree of control over the level of risk in the workplace." It is pretty self-explanatory. How can we have that level of control if our rights are not expanded? They are not in the act now. They are there, but there are so many different interpretations, and the enforcement is not there; the backing is not there.

Also, on page 22 of the booklet or page 8 of my brief, you will find the outline for responsible use. With those rules for responsible behaviour, what is the thing that scares the employers? Moreover, what kind of a protest by the employers made this government come up with amendments that completely dissected Bill 208?

I would like to thank you for the opportunity to speak and to remind you that we cannot take an effective role in our workplace and lower the risk if our rights are not expanded. We need the right to have a certified member in all workplaces. We need our people to be paid for valid work stoppages and we need to maintain the safety agencies we worked so hard to set up. The

problems in health and safety are workplace problems and, if you give us the tools, we need to solve these problems before the accidents occur. Then the costs that I have talked about will decrease. Thank you very much.

The Chair: Thank you very much, gentlemen. We have time for one quick question. I think Mr Dietsch's hand was up before. Am I right?

Mr Dietsch: Yes.

The Chair: If you could make it fairly brief.

Mr Dietsch: I am curious. You talk about labour feeling very strongly about maintaining the worker-run programs. I am intrigued by that concept, recognizing that many of the labour groups that have made presentations before this committee have been very aggressively pursuing equal participation on all the safety associations and on the agency. Now what I hear you saying is, "We want 50 per cent participation on your committees, but we don't want you to have 50 per cent participation on ours."

Mr Cooper: That is not really what I said. What I said was that you have to have central agencies set up to oversee and I said that we did not feel the need for employers to sit on our committees any more than they saw a need for us to sit on theirs. I am quite sure that if the Industrial Accident Prevention Association ever comes up to the standards the Workers' Health and Safety Centre holds, we will be more than happy to accept them.

1530

Mr Dietsch: Your answer was exactly the same way. What I hear you saying is that you do not feel that they want you sitting on theirs and you do not want them sitting on yours.

Mr Cooper: On the basic training committees. As I already stated, that basic central organization is a good idea providing we can get away from that neutral chair idea.

Mr Dietsch: Do you agree with management sitting on the workers' committees?

Mr Cooper: I agree in equal participation on that general overseeing health and safety agency but in regard to our own programs, which we worked so hard to set up, I do not think we could benefit by management sitting on them.

Mr Dietsch: So you are saying no.

Mr Cooper: No, I am saying I do not see a benefit there. I am not saying no. If somebody could come and show me a benefit to them sitting on our committees, then yes, I would be all in favour of it, but I do not see any benefit there.

Mr Dietsch: I guess the equal participation or the same reason why you would be sitting on theirs, for contributing to the items that you would deal with in respect of those safety associations.

Mr Cooper: But those will be dictated by the central agency, would they not?

Mr Dietsch: No, the safety associations are going to be maintained on their own and are going to decide the makeup of the worker participation, but they have to have 50 per cent worker participation on the associations.

Mr Cooper: On the associations, do you mean the IAPA would need to have 50 per cent us on theirs?

Mr Dietsch: That is right.

Mr Cooper: If that were the case, I guess—

Mr Dietsch: That is the case under the bill.

Mr Cooper: I guess if we were forced to swallow that pill, it would be a bitter one but we would swallow it. I am saying we are very proud of the organizations we have set up.

Mr Dietsch: And I agree.

Mr Cooper: I think they are far and away above the organizations from the other side. I do not see any reason to make them bipartite if you already have a bipartite agency overseeing them anyway.

Mr Dietsch: So you do not want to sit on the other associations.

Mr Cooper: I did not say that.

The Chair: I wish we could carry on the debate at greater length, because you had a very comprehensive brief. On behalf of the committee, I would like to thank you for it.

The next presentation is from the United Electrical Workers, western region. We welcome you to the committee this afternoon and we look forward to your brief. For the next 30 minutes, we are in your hands. Please introduce yourselves.

UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF CANADA

Mr Robinson: My name is Jim Robinson. I am the United Electrical representative for this area. I am joined today by, on my right, Mike Jeffrey, who is the health and safety representative of our Local 541 in Guelph which represents the workers at the Asea Brown Boveri plant. On my immediate left is Vern Edwards. Vern is the Local 526 health and safety representative out of the Canadian General Electric plant in Toronto. Next to Vern is Ken Thompson. Ken is the health

and safety representative of Local 548 which is the Westinghouse plant in Mount Forest.

We thank you for the opportunity of being here today. It is our intent to give you the opinions of our health and safety activists who work in shops in Guelph, Mount Forest and Toronto. Our union represents the workers in this area from, among other plants, the Asea Brown Boveri plant in Guelph, the Square D plant in Waterloo, the Keene-Widelite plant in Cambridge and the Westinghouse plant in Mount Forest.

Regardless of which factory we are from the one thing common to all is the high level of awareness of and concern for workplace health and safety. Our union considers health and safety to be an extremely important matter and we have put a lot of effort and resources towards training health and safety representatives and improving work-site health and safety. Three of our health and safety representatives are here with me today.

Our national union made a presentation to the standing committee on 15 January, and we would like to add our total support for its submission. As well, we intend to express to you the concerns of our members in the plants in this area through their health and safety representatives. It is only natural that we feel as strongly about health and safety as we do. For us accidents, deaths, injuries are not statistics. They are our friends, work-mates, sisters and brothers in the labour movement and family. When a serious injury or death occurs, all of us are affected by it, whether or not it happens in some other plant or some other union or even a nonunion shop, for all of us know it could happen in our factory and far too often does. We have seen the close calls where serious injuries almost occurred.

That is why no hazardous work substances, no potentially dangerous situation and no level of accidents or injuries are acceptable to us. They can and must be prevented. We have also seen how employers routinely frustrate the work of health and safety committees by delaying the correction of existing problems and ignoring recommendations. It is obvious to us that the only way to ensure adequate, consistent work-site health and safety is for it to be legislated by an improved Bill 208.

I will ask Ken Thompson to give the views from his local.

Mr Thompson: Any improvement to legislation that ensures the health and safety of workers is more than welcome. It is evident that we need legislation that forces employers to protect workers. The Occupational Health and Safety

Act has been in place for the last 12 years and the current record of death and injury has proved that employers need stiffer fines and tougher enforcement to make them protect workers' health and safety.

Even today employers as well as the Minister of Labour want to water down and actually take away the very rights and protection workers require to protect themselves. It is for this very reason that I and many more workers are here, to persuade the government that strong legislation is required to ensure workers' rights and protection.

To achieve the necessary level of protection there are some amendments proposed by the Ontario Federation of Labour that, if adopted, would help to provide improved health and safety.

The bill should be amended to allow inspectors to issue onsite citations for violations of the act or regulations as well as orders. These fines would allow inspectors to enforce compliance even on minor requirements that are not easily enforced now and leave prosecution to the courts for the major violations. These fines could be on a pay schedule as to the severity of the violation and could also be appealed to the courts.

Also, the bill should be amended to enable certified members to issue provisional improvements orders to the employers. These orders would have to be acted upon or appealed to an inspector. This would ensure that hazards which are not immediately dangerous would be corrected without stopping work.

An example I have of this actually happened in our plant where a Ministry of Labour inspector issues some recommendations, one of them was for a latch on an elevated stack or crane door. The crane would raise it up to 30 feet from the ground. The latch of the door, with a good jolt, would pop open. It was then recommended that a dual action latch be installed. It took the company one year of constant harassment before this was actually achieved. With provisional orders that could have been issued and if not complied with, the inspector could have then been called back in to issue his order.

The bill should also ensure that no worker is asked or told to perform work when a work refusal has been initiated. Currently, once a work refusal has begun, the employer has the right to ask another worker to perform this work. The only obligation the employer has is to inform the second worker that there is a work refusal in progress. The worker being asked could be a new employee who quite often may fear losing his or

her new job; it could be someone who does not know or understand his or her right to refuse, or supervisors may ask a worker they know will do the job just to stay in good grace with the supervisor. By legislating against reassignment to a refused job, the government removes all chance of any worker being injured or killed on a refused job. This would also provide employers with an incentive to resolve the problem quicker in order to resume the stopped work.

There is also a need to inspect the entire workplace at least once a month. In my own workplace, we construct actual steel buildings containing two to three rooms of electronic controls. Before one is even complete, another is started in a different area. Oftentimes, the dangers which have been corrected in one area are present in other areas. Regular monthly inspections of these areas will ensure a safe work area throughout the plant.

1540

Finally, I would like to address the requirement that our Workers' Health and Safety Centre and two occupational health clinics become bipartite. They are an essential part of training our members. I myself am a certified instructor through the Workers' Health and Safety Centre. During the instruction of our courses, workers trained by workers feel much more comfortable and less intimidated than they would with an outsider or a supervisor. Workers trust, listen and learn when instructed by someone they work with from the shop floor. They are even more attentive when they know the course is developed by workers for workers. The independence of the health and safety centre and clinics must be maintained.

Mr Jeffrey: My name is Mike Jeffrey. I am a member of the United Electrical, Radio and Machine Workers of Canada who works at Asea Brown Boveri at 201 Woodlawn Road in Guelph, which employs approximately 550 hourly-rated employees manufacturing large and medium-sized transformers and reactors. The business was originally a GE Canada plant, then sold to Westinghouse and now is Asea Brown Boveri.

I have been actively involved in occupational health and safety in the workplace since 1978 and have witnessed many changes in the attitudes of management and labour over the last 12 years. In my opinion, there are certain changes which must be adopted in Bill 208 for it to reflect the government's desire to advance workers' vested rights and the internal responsibilities in future workplaces.

First, I believe that a schedule of administrative penalties must be developed and used to supplement the current court prosecution system. Workers in some sectors have received administrative penalties or tickets from the ministry inspectors when caught violating the law. These penalties are much like the fines we receive for traffic tickets. The amount of the fine is preset according to the seriousness of the violation. They can be issued on the spot and can be appealed through a court of law. Therefore, I feel there should be a schedule of administrative penalties developed for the violations committed by employers.

A schedule could incorporate a sliding scale in which the seriousness of the violation, the past history of violations and the speed of compliance are reflected in the level of fine. These penalties would be applied without discretion for all acceptable serious violations, which would continue to go through the court prosecution system. These penalties against the employers could be used for those minor violations, as well as for the administrative violations that express a disrespect for the internal responsibility system. Penalties like these, if used readily and consistently, could create the necessary respect for and compliance with the act and its regulations that do not now presently exist.

This current situation leaves a lot of responsibility on the Ministry of Labour inspectors. Under the amended Bill 208 there is no doubt that in my workplace alone there would have to be a full-time ministry inspector. I am sure this is not the original intent of Bill 208. Therefore, there has to be an honest attempt to develop an internal responsibility system where trained workers are given the power to carry out their responsibilities. By doing regular inspections of the workplace in order to identify potential and existing health and safety problems, we would be able to make recommendations, which if not responded to within an agreed-to time frame, could be given the force of a provisional improvement order issued by a certified worker representative. These orders must be acted upon or appealed to an inspector.

Provisional improvement orders should not, however, be based on any form of reward system. The rewards of an internal responsibility system that works will be reductions in the number of work refusals and in the amount of lost time due to job-related injuries. As it stands now, I have little power and no authority, as a health and safety representative, with which to make an employer accept my recommendations.

I have one example, of 1 February, an order written by the minister where he, in his explanation, says that we need to develop a formal procedure to handle all work refusals. "This particular refusal was well documented by the union and the joint health and safety committee and the company was well aware of the situation—and problem. All parties at the investigation meeting and (persons contacted) agreed to the circumstances. The refusal should have been handled internally, without the Ministry of Labour intervention. In fact, this report only concurs with all parties. The fact remains that the employer (the company) must still resolve the problem." It dealt with an overhead crane.

Under the original Bill 208, a certified member can stop work for contraventions of law that pose an immediate and serious risk to one or more workers. In other words, immediate and serious risks caused by situations not covered by some section of the law will be allowed. Bill 208 should allow a certified member the right to stop all dangerous work which he believes could immediately endanger the health and safety of a co-worker.

Mr Edwards: I cannot possibly deal with all the issues I feel strongly about in the time I have, so I will deal with just a few of the issues that we consider to be among the most important.

As a factory worker, a member of a joint health and safety committee and an individual who teaches other workers occupational health and safety, I saw Bill 208 as a step in the right direction. I was therefore appalled when I read of Minister of Labour Gerry Phillips's suggestions that would not only tear the guts out of Bill 208 but would also remove rights that have already been established.

For instance, inspections of the workplace: Where I work, the entire workplace is inspected once per month. Our health and safety committee then meets and deals with the inspection results, as well as other issues. Many changes can take place over a month. We look for these changes and we look to see if what was written up the previous month is being rectified. This way, we are able to keep on top of the issues.

In a recent example we had in our plant, we were able to get the company to make one of the work tables that we stand at all day adjustable for the various heights of the workers. They did this by installing hydraulic jacks on either side of the table, so we can jack it up for the taller workers and bring it down for the shorter ones, which was fine. Everything was going along okay, and then

the engineers decided they were going to put some sheet metal to cover up the ends. So they went down and took all the measurements, but when they took all their measurements, they took them when the table was down. So when maintenance installed it according to the engineers' specifications and the table was raised up, there was actually a two-inch gap between the table and these edges. Most people, when they tend to lean against the table, will sometimes curl their fingers underneath the table. If these jacks let go, as they have been known to do—and we have had to replace them on occasion—your fingers would be jammed between the sheet metal on the end of the table and it would act like a pair of scissors. I do not know about you, but I have grown quite attached to my fingers over the years and I would not like to see this sort of thing happen to me or any other worker.

This is something we were able to pick up on our next health and safety tour, and they put a skirt around the table, thereby eliminating this hazard. It is not exactly life-threatening, but it is an example of the kinds of things we look for when we are on our tours of the plant.

We recognize full and frequent inspections as a vital tool for identifying hazards and dealing with health and safety issues. It is generally accepted that the entire workplace should be inspected once a month. With the change in wording being proposed to have entire workplace inspections mandatory only once a year, I believe this will have the result of taking a step backwards and would reduce the health and safety committee's effectiveness. Instead of watering this section down, it should be expanded to require mandatory monthly inspections of the entire workplace.

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I see the requirement that our Workers' Health and Safety Centre and our two occupational health clinics have management representatives on the board of directors as a step backwards. Our labour-controlled training centre needs to maintain its independence to produce courses and training programs so that workers can be trained by workers on their rights, on labour's view of health and safety issues and to develop an understanding of how to effectively represent their co-workers in the workplaces, on the boards of safety associations and on regulation-setting committees. As a worker who trains workers, I have seen how people can be intimidated simply by having management in the room. To be fair, I will agree that there is a role for an employer-

controlled training centre to deal with training management from its view of health and safety.

As the sectoral associations are to become bipartite, and "bipartite" means two sides, then it stands to reason that we should be coming in with different ideas, views, proposals, etc. That way, they can be discussed and the best ideas considered. The organization would soon become stagnant if everyone came in with the same roles and ideas.

Our national union brief mentioned an unsafe work activity refusal at the Plasticap Plant in Richmond Hill. I spoke to the woman who initiated the refusal. From the very beginning, she was insulted by management over the nine months it took the ministry to study and resolve the issue. She was assigned to miserable jobs in the plant, harassed and lied about by management, all to show the managers' anger at the refusal.

When management representatives act this irresponsibly, it intimidates the workforce and makes people wonder if refusing is worth it, or if they should silently accept unsafe working conditions. Employers are not prosecuted for reprisals against workers, and the irresponsible employers know it and use it. We need an amendment that will ensure that these violators are prosecuted so that workers will not be afraid to exercise their rights.

Another amendment we would like to see is the right to refuse extended to public sector workers. One of our members has a daughter who began work in a correctional institute and after only four days on the job was placed alone, with no training, doing work in the shower room, kitchen and dorms with 60 inmates. This worker was placed in a potentially hazardous situation, with no training and no right to refuse.

The final issue I would like to see addressed is the right to stop work. Currently, the bill allows a certified member to stop work only if there is an immediate danger and a contravention of the law. This is too stringent, as there are many varied dangers among this province's employers that are not addressed in specific law. In recognition of this, the bill should allow a stop-work when there are reasonable grounds to believe there is immediate danger.

Employers might argue that this right is going to be abused. I feel that this is not a valid argument. This argument was used by some when workers were to be given the right to refuse under Bill 70. We have seen since then that in fact the right to refuse has not been abused, with only 426 refusals in 1987-88 needing Ministry of

Labour involvement, out of a workforce of four million in this province. If this expanded right was given to certified members, we know that it also would not be abused.

The internal responsibility system will work effectively when both sides have authority to act. Currently, only management has authority. If a member brings a concern to management, management can shut down the operation. If the company decides that production or other concerns are more important, there is little a member can do if the workers are probationary or immigrant workers and afraid to exercise their right to refuse.

The unilateral right to stop work is essential to reduce the increasing death and injury rates in the workplace. Since 1980, excluding 1989, there have been 2,311 deaths and 1,613,108 lost-time claims. Only with Bill 208 strengthened can we begin to reduce the carnage, the senseless waste of human life and the suffering. Workers lives literally depend on your recommendations. Do not let them down.

Mr Robinson: You have heard from some of our health and safety representatives. It is obvious that for Bill 208 to really be effective, some changes are necessary. It needs to be amended such that enforcement in this province is improved, while the internal responsibility system is strengthened. Otherwise, we are never going to be successful at reducing the number of injuries and deaths.

These changes must include automatic fines against employers, which will increase in amount coincident with increases in the frequency of the violations and their seriousness. This will help counter companies from frustrating the process by delaying posting reports, follow-ups on work orders, etc.

For the internal responsibility system to be effective at all, it is essential that certified members be given the right to shut down unsafe work areas when they have reason to believe a dangerous situation exists, not just when there is a contravention of a specific law. For the employer to have the certified member become decertified for life for any mistakes should be changed. Currently, any full-time ministry inspectors are protected from company action, and so too should our safety representatives. Section 24 provides an appropriate system for handling the employer's abuse of power. This section could easily be expanded to cover alleged abuses by certified workers.

As well as the right to shut down unsafe work areas, it is important that our safety representa-

tives be given the right to issue provisional improvement orders. It is interesting to note that in Australia, where they have an internal responsibility system, they have the right to shut down unsafe work areas and they have the right to issue provisional improvement orders.

Bill 208 also needs to be improved to prevent companies from having the right to assign other workers to a job where a work refusal is taking place. As you have heard, our concerns are that some will do the work because they are probationary workers, not sure of their rights or simply intimidated by the supervisor. If a dangerous condition exists, no one should work on it until it is corrected. The practice of workers being assigned poor jobs or harassed as a form of punishment for exercising their rights must also be stopped. Even when an employer goes so far as to improperly lay off or discharge a worker, the only thing that happens to the employer is that it has to correct the matter by, as an example, paying back wages, rehiring etc. This just corrects the immediate situation by making the employer do what it would have already had to do. This is not a disincentive. When this type of occurrence happens, they should be subject to hefty fines as well as correcting the matter. If these few things were done, we would see more workers standing up for their rights.

As I said in my opening remarks, our union has put a lot of effort into training our health and safety representatives. This has shown us the benefits and the need for our own health and safety centres which are controlled by the labour movement, free of any employer influence or control. We need to have exclusive worker-training centres so that we have a basis for the independent training of workers from a worker perspective. This approach has had terrific results to date, with the development of such programs as the Ontario Federation of Labour's 30-hour health and safety course. While we can accept that there may be health and safety courses that should be developed in a bipartite way, like the workplace hazardous materials information system, it is essential we have our own centres from which to train our representatives.

Another aspect of Bill 208 we feel needs changing is the frequency of workplace inspection tours. The new act only requires inspection of the entire work site once per year. We have negotiated with most employers for monthly inspections. We feel this is necessary to assure a consistently safe workplace. While most employers have already agreed to monthly inspec-

tion tours, we believe the same standard should be applied to every employer.

The final point I would like to bring to your attention is the support of our union for those workers who are not covered by Bill 208, including public sector workers and farm workers. Accidents, injuries and deaths occur in all sectors of the workforce, and health and safety rights must be guaranteed for everyone.

I would like to express our appreciation for the opportunity to present our views and opinions on Bill 208. While we have not dealt with the entire bill, we have dealt with the areas that we feel are very important. I believe strongly that when the government is introducing major legislation such as Bill 208, it is important to give interested individuals and groups plenty of opportunity for input into that legislation.

For this process to be meaningful, however, it requires two things; first, that those interested participate in the process and, second, that the government listen to the concerns and suggestions and incorporate those recommendations into the legislation. I believe the first condition has been met. It would appear to us, given the number of interested individuals and groups making presentations and attending today, that you are getting plenty of participation. I understand that is typical of everywhere there have been hearings. On the second condition, that of the government amending Bill 208 to incorporate labour's proposals, we will wait anxiously to see. Thank you.

The Chair: Thank you, gentlemen, for a very comprehensive brief. There is time for a quickie question. Mr Dietsch.

Mr Dietsch: I found your brief very interesting and you raised some very interesting points. In your brief, it was not quite clear, and I want to make sure I fully understand your position, in respect of the joint participation, the joint co-operation of individuals in the workplace. I guess I would have to ask you, first, who is best equipped to recognize dangerous situations in the workplace. Do you think it is the Ministry of Labour, do you think it is the workers, and should it be done jointly?

Mr Robinson: I do not think there is any one answer to that question, and it would depend on the circumstances. I think, certainly, the workers on the shop floor are best able to identify the work hazards, along with their health and safety representatives, who have been trained by the labour movement.

Mr Dietsch: I guess the reason I ask that question is that in your brief you make mention of the fact that you would like to keep your worker centres and that management should be entitled to a management centre. I guess the way I interpret that is that from all the briefs we have had presented to us, there has been a large number of them that have supported joint participation, joint co-operation and the recognition of the need for additional training, which are all encompassed within the bill. I am wondering why your group chose to sort of dissect, if you will, the workers' clinics and then suggest a management clinic. What you are looking at is health and safety as a whole picture, not two different views.

Mr Thompson: I can probably address that. The reason I feel that way is that our plant a year ago was running double the lost-time actions we are this year. The company had not maintained—we are getting pats on the back from corporate headquarters over the reduction in lost-time accidents. The only aspect we can attribute it to is the mandatory workplace hazardous materials information system training. We have noticed—there are three of us health and safety representatives, all trained—that more people are asking questions, more people are questioning what they are working with. They have had some education. A lot of comments were that they did like the fact that we trained it by—management side and myself taught the entire plant. They like that aspect because I work on the floor with them. I am right there beside them. I sit in the lunchroom with them. They know they are going to get an honest answer from me if they ask a question.

Mr Dietsch: So both of you taught?

Mr Thompson: Yes.

Mr Dietsch: So it was done jointly?

Mr Thompson: Jointly, yes. As we stated, the WHMIS was done jointly. The 30-hour, however, which I also instruct, I feel is better put on especially for the workers by the workers because it is specific to the workers.

Mr Dietsch: But if one would work, why would not the other?

Mr Thompson: The training course would have to be actually too long to incorporate both. What we do is we specify on the workers' duties, the workers' responsibilities and the workers' rights under the act, under the legislation end of it, and then how to protect themselves and doublecheck that they are being protected.

Mr Dietsch: I was just at a bit of a loss.

Mr Robinson: If I could just add to that so that you are clear on our position on this, we do see a role for some dual training. Ken has given the example in his shop of the WHMIS training. I believe there was certainly dual input into developing the WHMIS program itself as well. Our point is that while we see a role for that, and there are more examples than just WHMIS that we could look at, at the same time we feel it is important, is essential, that we retain control over the Workers' Health and Safety Centre where we are able to run it exclusively by the labour movement without any employer input at all to train our instructors and so on, who can then meet with management to develop whatever joint programs they happen to feel are necessary.

Mr Dietsch: But you see, the problem we are faced with is that management is saying exactly the same thing about the safety associations and you are saying exactly the same thing about the workers' centre on the other side.

Mr Mackenzie: There is a whale of a difference in the training that has been given and the programs that are there.

Mr Robinson: It is our view that when you look at things such as the Industrial Accident Prevention Association and at the amount of money that has been put into that, and you look at the amount of money that has been put into the Workers' Health and Safety Centre, I think the labour movement has done a far better job in using that money to train workers' health and safety representatives and so on.

The Chair: I am going to have to call this to a halt because we are out of time, but Mr Thompson, Mr Edwards, Mr Robinson, Mr Jeffrey, we thank you very much for your presentation.

The next presentation is from the United Food and Commercial Workers. Gentlemen, we are pleased you are here this afternoon. We look forward to your brief. If you would introduce yourselves, we can turn the next 30 minutes over to you.

UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION, LOCAL 1977

Mr McLean: First of all, I would like to introduce on my right, Brian Williamson, president of our Local 1977, and on my left, Scott Penner, secretary-treasurer of Local 1977, and I am Al McLean. I am a member of the rank and file. I am a produce manager at our Zehrs

store in Wasaga Beach and I am also a member of the executive, joint health and safety committee.

Before I start, I would like to share with this committee a concern I have, and that is that the last time I made a presentation before a standing committee it was as a concerned parent with regard to the Sunday shopping issue. I made a submission before the committee in my home town of Collingwood and on that night there were 19 opposed and one in favour of the municipal option. I believe that that is a pretty good reflection of the way the briefs were going, but it seems the government at that time had already made up its mind regardless of what the committee was hearing and I certainly hope that will not be the case with this issue before this committee.

On behalf of Local 1977 of the United Food and Commercial Workers International Union, I would like to thank the members of the standing committee on resources development for the opportunity to share with you the views of our members regarding this very important matter of Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

Local 1977, which has its office and training centre in Cambridge, represents over 3,000 employees in Zehrs markets and the employees in one Valu Mart, one Mr Grocer and one Canadian Commercial Workers Industry Pension Plan.

Our members live and work in the following cities and towns of southern Ontario: Guelph, Kitchener, Waterloo, Cambridge, Elmira, Fergus, Caledonia, Ancaster, Brantford, Ingersoll, Tillsonburg, Strathroy, Goderich, Kincardine, Port Elgin, Owen Sound, Wasaga Beach, Wingham, Listowel, Orangeville, Bolton, Uxbridge, Orillia, Alliston, Toronto, St Thomas and London.

We view these hearings as the opportunity to assist Ontario in developing the type of legislation to afford our fellow union members, as well as the unorganized workers of this province, the rights and protection needed to reverse the tragic and sometimes fatal results of a system that is failing. We cannot stand by and watch as one worker on average is killed every working day in Ontario any more than we could stand by and watch if someone was beaten and robbed.

We hope that this committee will agree that we must resist the pressures of some in the business community who believe that an acceptable part of doing business in Ontario is an increase of 30 per cent of serious lost-time claims, an increase

of 100 per cent of permanent disability claims, more than four million workers injured on the job, and 2,500 workers killed on the job, all since 1979.

These are but cold hard statistics that do not hit home until someone in your family or a friend loses a limb, is crippled with a workplace related illness or even dies on the job. The message should be clear. This committee must recommend that the government move forward, not backward and strengthen, not weaken Bill 208.

At its first reading, Bill 208, although not perfect, would provide us that very important first step forward since 1979. Some of the much needed improvements that affect us were:

1. The need for a mechanism by which workers could participate in health and safety in our workplaces was recognized and the restrictions on joint committees in retail operations will be removed.

2. Worker members will have at least one hour's preparation time for each meeting, time which management members had taken in their regular workday in the past.

3. Individual workers will be able to refuse work activities that are unsafe.

4. Every workplace of 20 or more will have a certified worker member on the joint committee and a certified management member.

5. All joint committee members will be trained, but certified members will have in-depth training in order that a certified worker member will have in principle the right to stop dangerous work. The importance of having a well-trained worker member who can take action to prevent serious injury or death on the job is clear.

6. Fines to increase from \$25,000 to \$500,000 or one year in jail: we hope that the ministry will not continue to be reluctant in issuing the maximum in fines or jail terms.

7. Joint committees will have labour and management co-chairpersons rather than the single and usual management chair.

8. A bipartite labour-management agency will be established to set the standards for such training in the province and determine how research funds in occupational health and safety will be spent, thus giving us in labour some input into how the \$40 million that is currently spent by the nine management-controlled safety agencies including the Industrial Accident and Prevention Association.

There are still some serious shortcomings in the original bill and the proposed amendments would further weaken it. Here are some examples:

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1. Right to stop work can be started by the management certified member, does not make any sense. We need an amendment to ensure an agreement between labour and management that an inspector must be called before a stop-work order is cancelled.

2. Workers affected by a right to refuse or a stop-work order either by certified member or an inspector are not paid under the act or Bill 208. This puts tremendous peer pressure on workers not to use their rights. In our industry we must be cautious as there is always a young uninformed worker available to management to replace an employee who may have exercised his right to refuse.

3. Ensure inspection of entire workplace of each and every location at least once per month: in our industry a single employer has a large number of outlets spread across the province.

4. Ensure that the union, not the company, select the member of the committee to be certified: in a case that we recently were involved with where workplace hazardous materials information system instructors were to be selected, management chose to totally disregard any consultation with labour.

5. Require the employer to respond to committee recommendations within 30 days. We feel this would be too long for a health and safety concern and recommend seven days.

6. Expansion of the right to stop work to include reasonable grounds to "believe" and "immediate" dangers that may not be violations of the law or the regulations: there are many dangers that are not addressed in specific law or regulations; for example, in our industry, repetitive strain injury from a poorly designed workstation or performing the same job at an increased speed.

7. A tripartite agency with a full-time neutral chair: what is actually needed is a bipartite agency which would place the responsibility for training and research on the actual workplace parties, labour and management, ensuring better acceptance and compliance as well as removing control from a government-appointed chairperson who represents another major employer in the province.

8. As well, an amendment is needed that ensures employers are prosecuted for intimidation tactics against any members exercising their right to refuse unsafe work.

9. Forbid an employer from assigning another worker to do a job that someone has refused to

perform because it is unsafe until the issue has been resolved.

10. Provide the certified member the right to issue orders to correct hazards that may at that time not be posing an immediate danger, but a hazard that should be corrected or responded to by an inspector.

In conclusion, the grocery industry has gone through rapid technological changes in recent years with the introduction of such equipment as scanners, ring and bag at the checkouts and boxed meat in the meat department. Our industry does not have the reputation of being one with serious hazards as our accidents are not of the headline-grabbing type. But these scanners and the poorly designed workstations in which they are incorporated, as well as the repetitive motion used in cutting meat, trimming produce and case cutting boxes in the grocery, are definitely taking their toll.

A recent study indicated cashiers in a six-hour shift lift and move over 9,000 pounds of groceries—great for the employer, but what about the cashiers? Well, I would like to tell you about a group of young women in my store in Wasaga Beach. Our store by today's standards employs fewer employees than average, but within the past 12 months four women, three of whom are under 35 years of age, have had to undergo painful surgery on their wrists to correct the damage done by years of repetitive motion required to operate a poorly designed checkout.

The results are carpal tunnel syndrome, tendonitis and strains on shoulder and back areas. The pain and suffering that these and countless other workers have endured cannot be reduced, but this committee has the opportunity to make the workplace safer for us and for our future workers, my children and yours.

Our local union, as well as many others, recognizes the importance of making our workplaces safer for our members, and the way in which we have attacked this problem is at the bargaining table.

Failing to have the type of legislation we feel is needed to help improve the workplace, we will at every round of negotiations submit proposals to improve health and safety standards, but we need the government to provide the type of legislation that will ensure that companies place employees' health and safety with the same regard as profit. Only then can labour be guaranteed the protection of a safe and, I am sure, a more productive work environment.

Our local, through the efforts of our executive joint health and safety committee, recently

started receiving from the company a list of all accident investigation forms. With the information contained in these forms we hoped to identify and correct any areas which seem to be causing our members increased risk.

This seemed a simple plan: review all accidents and see where they might be reduced. Our initial request for this information was not greeted with much enthusiasm by the company, and I dare say if not for pointing out to them that it was indeed our right to have this information under the present legislation, I firmly believe those reports would not have been made available to us, or possibly it would have been an edited version with what they wanted us to know. So, you see, strong legislation is the key if we are truly serious about helping the workers of this province to help themselves and improve our standards on health and safety.

We sincerely hope that this committee will send the message to all the workers and the voters of this province that the trust they placed in you was not misplaced.

The Chair: I have one brief question. On page 3 of your brief, at the very bottom it says, "Here are some examples: 1. Right to stop work can be started by the management certified member, does not make any sense." Could you explain that.

Mr McLean: In Bill 208 we cannot see—if something is unsafe and somebody on the labour side shuts down a particular operation, we feel that it does not make any sense to have a labour certified member or a management certified member come along and say that it is all right to start the work.

The Chair: I am reading that differently. You are saying when the right to stop work can be ended by a management—okay.

Mr McLean: What I have done is, that is the statement and then I tried to explain it.

The Chair: Okay, I am with you now.

Mr Mackenzie: Earlier this afternoon we had the independent grocers before the committee. I am not sure if you were in the room when they made their submission, but certainly they argued that they have a much better safety record than the chains and larger stores, and in effect, that this legislation was not needed. What I would like to know is, do you have any evidence of whether or not they are using any of the checkout type of equipment you are and whether or not their employees would be subject to the same strains that the women you mentioned in your store are subjected to?

Mr McLean: There is quite a bit of studying being done at the present time. I believe the University of Waterloo here in town is doing a study on scanning. The design of most of them is somewhat the same. Out in British Columbia they have been testing a different type with government funding, with the company and the union working together to try to develop an adjustable stand that would fit a six-foot-tall cashier as well as a five-foot-tall one; it would be adjustable. I am sure the ones in Ontario, if they are scanning machines, function in the same manner as ours. They were designed for speed. They were not designed to accommodate the different types of individuals who are working on them.

Mr Mackenzie: So we have no reason to expect that there would not be the same type of injury potential there that there is among your members.

Mr McLean: Definitely.

Mr Dietsch: With respect to the same following up on the line of questions that you posed, there was an earlier presenter today who outlined with respect to the suggestion that startups would be done on a joint basis, with the management and the worker certified people in attendance. I asked him the question whether or not he would be agreeable then if the shutdown was the same way. He indicated he would. I would like to have your feedback on that particular situation. If this is indeed the case, as you point out in your concern with regard to the startup of a job that has been shut down, if that was done jointly and the shutdown was done jointly, could I have your comments on that.

Mr McLean: In a case like that, if one side or the other cannot agree on a situation as to—if I understand you correctly, if the management side wanted to shut down something, a particular operation, it would want the labour side to agree with it?

Mr Dietsch: No. On the bottom of page 3 you indicate that if management has the authority to come along and start up, it does not make sense. Am I correct?

Mr McLean: Right.

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Mr Dietsch: What I am saying to you with respect to the startup is that if it were done jointly between the certified worker and the certified manager—

Mr McLean: Definitely. Yes, I think that is the goal.

Mr Dietsch: On the reverse of that, if the shutdown was done jointly by the certified worker and the certified manager, would you agree with that?

Mr McLean: I cannot see somebody from labour being opposed to shutting down something if the company wanted to shut something down, but understand that if the company were opposed to shutting something down, then that is where they reach a roadblock and maybe an inspector would have to come in and resolve the difference.

Mr Dietsch: Exactly. In your presentation, I am trying to get a better understanding, as was the chairman, with respect to that particular issue. The other item I wanted to ask you about was with regard to the inspections in the workplace. How often do you inspect your workplace? Did you say?

Mr McLean: Once a month.

Mr Dietsch: Once a month.

Mr McLean: If I understand the amendments to Bill 208, we do an entire store inspection whereas the way I perceive the amendments maybe one month you might only inspect the meat department but not inspect the rest of the store. I think one of the key tools for the health and safety people in the field is that they have to do the entire store, not just portions of it or one store at a time.

Mr Dietsch: Yours is negotiated within your contract, I assume, is it? Is it your policy or is it negotiated? Is it negotiated in your contract? Is it spelled out in your contract?

Mr McLean: Both.

Mr Dietsch: Then the bill will not take away from that negotiated accomplishment that you have with respect to it, because the bill simply says at least a minimum of once a month. In reference to that, it can be more.

Mr McLean: Exactly.

Mr Dietsch: That is how a joint health and safety committee would work. It sounds to me as if your operation is advanced compared to some of the ones we have heard about in respect of the kinds of training and knowledge you have. That committee, then, would be able to recognize some of those dangers that would be out there and would be able to be settled between your joint health and safety committee before they became a problem.

Mr Penner: What of the workers who are not organized and do not have the language in their

contract, do not have a contract? How are they going to address that unless we get legislation?

Mr Dietsch: It is spelled out in the legislation.

Mr Penner: But if you are going to talk about once a month or more.

Mr Dietsch: Talking about a minimum of once a month, that is right, and what you are saying is you think the whole workplace—I can see where a grocery store, for example, would be able to be inspected in its entirety, but if you were talking about a major facility—that is what you have to recognize, that the bill covers the small operations, the larger operations and then the big operations as well. We have heard from many of them over the hearing process. For example, mining has worker inspectors negotiated in their contract. My point to you is that the bill does not take away things that you have negotiated.

Mr Penner: It does not help someone who has not negotiated something.

Mr Dietsch: Yes, it does, but not as far advanced as you are.

Mr Penner: That is right and that is what I think the legislation should be doing, building and growing and being progressive and not taking away from negotiated contracts.

Mr Dietsch: It very definitely is. I am sure you are aware of many of the positive attributes that are in the bill, albeit that you might not want to recognize them.

Mr Penner: We recognize the positive ones in the original Bill 208, and we also recognize—I have heard it referred to as gouged; I have heard it referred to as being raped—that the amendments take away a lot of the initial intent of Bill 208.

Mr Dietsch: The adjectives are there, but there are in fact still an additional 20,000 joint health and safety committees, certified worker reps and increased participation for health and safety training on which we all agree. Many of your presenters have made indications that way. That is to name but a few, and certainly there is worker participation in the agency and the safety associations, up until some of the presentations we have heard today, which have a different kink.

Mr McLean: But basically we are just trying to stress the importance of a thorough inspection at least once a month. Ours was somewhat just related to our industry and we are not trying to—

Mr Dietsch: Okay, I appreciate it.

The Chair: Mr Penner, Mr McLean, Mr Williamson, we thank you very much for your presentation.

The next presentation is from the United Rubber Workers. They are going to read this brief.

Mr Shea: No, thanks, that is for reference for you.

The Chair: I see. We welcome you to the committee this afternoon. We look forward to your presentation for the next 30 minutes.

UNITED RUBBER WORKERS

Mr Shea: I am Jerry Shea, Canadian director of the United Rubber Workers and I am also Ontario Federation of Labour vice-president.

Mr Dawson: I am Ken Dawson, president of URW Local 677, Kitchener south plant, Uniroyal Goodrich Canada Inc.

Mr Webber: I am Jim Webber, president of Local 73, United Rubber Workers, Epton Industries, Kitchener.

Mr Harvey: I am Jim Harvey, president of Local 80, United Rubber Workers.

Mr Shea: Mr Chair, we have appendicized to the back of our brief a number of our local unions in this area that are in attendance in the hall here today. They have sat through the whole hearing and with your indulgence I would like to ask them to stand, if I may, so the committee can see that they are here and the concerns they have.

Would the Rubber Workers please stand.

The Chair: Who is making tires today?

Mr Shea: There are still 2,000 people over there making tires. I might say that these not only represent the tire plants, they represent 10 plants from the Kitchener, Cambridge, Stratford and Mitchell area. Their concern with the proposed bill is the reason they are in attendance today.

The United Rubber Workers appreciate the opportunity to appear before this standing committee to address our concerns about Bill 208, An Act to amend the Occupational Health and Safety Act and the Workers' Compensation Act.

The United Rubber Workers, an international union, represents some 13,750 members in 77 local unions in Canada; 11,000 of these members, in 54 local unions, are in Ontario.

Our union has always been concerned about the health and safety of its members in the workplace, having negotiated health and safety committees and contract negotiations many years before the present act came into effect.

Our international union was the first union in North America to have a permanent industrial hygienist on staff, who also is a member of the

Hygienist Association of Ontario and the internationally recognized Collegium Rammazzini.

In Canada we have an active and ongoing education program for our health and safety committees. We conduct two two-day seminars each year to train and upgrade our plant committees to protect our members and endeavour to make our workplaces safe for our members to work in. We have 26 members presently trained and qualified to present workplace hazardous materials information system training to our members.

The United Rubber Workers is committed to make all workplaces safer for its members and all workers in general and fully endorses the submission of the Ontario Federation of Labour to the standing committee.

On 24 January 1989, Bill 208 was introduced for first reading. This bill proposed some important steps to improve workers' health and safety in the workplace. However, on 12 October 1989, the honourable Gerry Phillips, bowing to industry pressure, proposed a number of further amendments that would render the bill ineffective.

It is our strong belief that to give all workers the assurance that everything possible is being done to make their workplaces as safe as possible, the bill must be strengthened, not weakened.

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All workers should have the right to a safe and environmentally sound workplace. To achieve this goal we feel the bill must contain provisions to provide:

1. Joint occupational health and safety committees: joint health and safety committees should have labour and management co-chairs. Committee members should be trained in occupational health and safety with certified members getting in-depth training as determined by the agency. A bipartite labour-management agency should be established to set standards for such training.

Worker members and certified members shall be selected by the workers in the manner they determine. Certified worker members must have the right to stop dangerous work, providing the mechanism for a trained worker member to act to prevent serious injury or death. All worker complaints shall be investigated by certified members. All workplaces shall be inspected at least once a month.

2. The right to stop work: the right to stop work is the most important section in the act to workers in this province and must be extended to all

workers in Ontario. The present act provides that a worker may refuse to work if he has reason to believe a danger exists. A trained certified member should have the same right.

A certified member who has reasonable grounds to believe that a danger or hazard to a worker is present and that any delay in controlling it will cause a serious risk must have the right to direct the employer to stop work, specifying the work or the use of any part of the workplace or any equipment, machine, device, article or thing that shall be discontinued. A stop-work order once issued can only be cancelled by agreement of the parties or an inspector.

In the event of a work refusal, no worker shall be assigned to use or operate the equipment, machine, device, article or thing, to engage in the activity or to work in the place or a part therein which is being investigated.

Where there is no work for a worker because of another worker's refusal or a shutdown either by a certified member or an inspector, the employer shall pay to the worker not less than 100 per cent of the worker's regular or premium rate for the period of time for which there is no work.

3. Internal responsibility system: the present internal responsibility system has not worked under a system that continues to limit the power of the joint committee in making the workplace safe.

We have submitted some statistical data from some of our local unions showing how the ministry has had to intervene to have companies fulfil their obligations. Listed is the number of local unions, and that is in the large volume you were issued.

How can this government expect organized labour to continue to participate in programs as equals with management without having the same powers to shut down an unsafe workplace? Some employers have given employees the right to stop work where quality of the product is involved, but not where employees' health and safety is involved.

We as representatives of organized labour are fed up with the inaction of the government in refusing to accept the fact that health and safety in the workplace is the most important issue on the bargaining agenda. If the present government does not bring in legislation that provides equal status to both parties in the workplace on health and safety matters, it leaves organized labour no alternative but to take the issue to the bargaining table for resolution.

If I might add, in view of the article in the *Kitchener-Waterloo Record* of 5 February attrib-

uted to Gerry Phillips, I would ask this committee, like Scrooge in the famous A Christmas Carol, is the proposed amended Bill 208 things that must be or things that might be?

We would ask this committee's support in producing a bill that would provide safe and healthy workplaces in Ontario. This committee I believe has the opportunity to go down in history by being responsible and recognizing the problems faced by workers in the workplace, by bringing in recommended legislation that would provide workers with peace, knowing they go to work in the morning with the hope that they will be able to come home to their families at night with all their limbs intact. I would ask that this committee give serious consideration to the recommendations we are requesting.

I would also add that there were a number of questions asked by the committee this morning and maybe we can enlighten committee members on a couple of them. I believe Brother Mackenzie or Mr Mackenzie—I have known Bob for a long while—asked the question of the—

Mr Epp: You brought your own cheering section, Bob.

Mr Shea: You better believe it. He asked the question, with regard to one of the submitters, whether or not he was aware of management personnel who had been injured in the workplace. I think I can answer that question. In our small book that we gave you, we have a documented case which just happened last year. It is in the second section, if you would like to refer to it. It is under the title Uniroyal Goodrich Canada Inc, North Plant.

The Chair: How do we find this section?

Mr Shea: Go to the tab, the first tab down. The second section is Local 80. If you go to page 3 of that, it says "Case 1."

This is a case where we had management, a supervisor in a plant who was injured doing work, the only difference being that this plant at the time was on strike and the company was operating the plant. This supervisor, who has the responsibility for training workers, was injured himself by not following the company's own rules. I might add that this happened in June and it was a very serious accident. You may think it is funny, but it is not. This employee is still off work and we have no knowledge of when he will be coming back to work.

The evidence in here goes on to show that the local union, which has an active joint health and safety committee, because it was on strike was not notified for a long period of time after the accident. This was a contentious issue.

It goes on to show that we are very proud of the rubber workers on our safety committees in the plants. We think they are very effective, as we have stated, but we believe that regardless of how effective those committees are, we require the provisions under the legislation to give us the right. I think we have not used that right frivolously in the past and I think our record shows that. We are responsible. Even if you look at all the polls, the polls show that everyone feels that workers are the best ones to put forward a case of safety in the workplace and adequately represent the members.

There were a couple of other questions that were asked, if I may try to elongate on them. One was a question that I believe was asked with regard to a statement made by a company—I believe it was Iacocca—that in the first instance they would shut down the plant and how would we respond to that. I would have to respond in the same way we do across the bargaining table with the company at any time. That is not a new statement being made by companies.

If you recall, just a couple of years ago General Motors threatened to close down its plants in Canada if it had to bring in an indexed pension. The indexed pension is in and I think General Motors is still operating.

I think these are statements that are made across the bargaining table at any time. Unions try to introduce provisions that would provide protection for their members that will end up possibly costing the company money. I think it is a standard procedure to threaten to shut down plants.

We do not have any control as to when a company shuts down a plant. In the rubber workers we have seen many of them in the last couple of years. I can bring up a case in point which probably the committee members are aware of, Goodyear in New Toronto. The company suddenly determined to shut down a plant. Were they concerned about the employees who were in those facilities? No. Firestone in Hamilton shut down its plant. Were they concerned about those employees? When a company makes a determination that it is going to shut down that plant, it is going to shut it down. I do not think there is anything you or I were able to do to stop that in the past.

We had a question that was asked about the accident ratio being reduced in the last number of years. I think the committee will have to recognize that there is a program of modified work being carried on by a lot of companies to disguise the number of accidents that are taking

place, whereby they bring these employees back to work, paying them their full salary—this is the little tidbit they give them—so they will come back to work, and they do not have an accident that is registered as an accident. The only problem with that, I would point out to you, is that if those employees who do accept that tidbit have a recurrence of the injury down the road, then they are in serious trouble.

Also, I believe a question was asked of the committee with regard to a company and a union having training centres. I would refer the committee to the brief of the Ontario Federation of Labour, which very clearly spells out the position of organized labour. We are saying that a bipartite committee would be set up that would supervise training, set out training, etc. I think this would be the position organized labour has taken. We feel the bipartite committee should be setting out the guidelines, and if management and labour are able to sit across the table together under a bipartite arrangement, I am sure that they will be able to resolve their differences to the betterment of everyone. I would answer any questions, Mr Chairman.

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Mr Mackenzie: I do not want to have any misinterpretation of my chuckle at the one management person so far we have had identified as being injured on the job. The chuckle was not for his injury—I feel for any person injured on the job—but for the fact that it was a supervisor performing the job of a worker who was on a legal strike and then operating in unsafe circumstances as well. There is a little bit of irony in the example that has been presented here.

The question I have is, Jerry, you are the ranking Canadian officer of your union, I believe, one of the major and long-time unions in this country, the United Rubber Workers.

Mr Shea: Right.

Mr Mackenzie: You are also an officer of the Ontario Federation of Labour. In your position, either as an officer of the OFL or with your union, were you consulted in any way whatsoever with the suggested amendments that were suddenly presented to us when the new Minister of Labour (Mr Phillips) dealt with the bill on second reading?

Mr Shea: No, I was not.

Mr Mackenzie: Are you aware of the letter from Mr Thibault, head of the Canadian Manufacturers' Association, to the Premier (Mr Peterson) on 2 March? If I could just read you the conclusion of that letter and ask you if it surprises

you. This is a letter to Premier Peterson dated 2 March following the introduction of the bill in the House:

"The Minister of Labour says that this legislation has proceeded after consultation with business. Many of the business leaders that were involved in these consultations serve on the CMA board of directors and it is their view that these consultations were seriously flawed and that the minister and his officials did not adequately listen to industry's concerns.

"We urge you to support far more meaningful discussions with the employer community to resolve these problems. Bill 208 needs to be amended to ensure fairness and effectiveness in achieving the goal we all share of safer and more healthy Ontario workplaces.

"The copies of this letter that are being sent to your Industry and Labour ministers also include a list of other, more technical, problems with Bill 208 that we hope to be able to resolve by working with the Minister of Labour.

"I will be calling on you early next week to arrange a meeting. I hope that changes to Bill 208 can be made before the ground swell of opposition by our members and others in the business community grows out of control."

This follows a two-page letter to the Premier outlining their unhappiness with Bill 208 as brought in by the previous minister and listing the things they want changed, every one of which is in the suggested amendments that were produced by Mr Phillips in the House on the second reading of the bill.

Mr Shea: I might say that is one of our concerns. Organized labour was prepared to endorse the bill in its original concept. We feel very strongly that as a result of the pressures put on by big business and small business, the bill has been watered down to the extent that it takes away the real meaningfulness of the participation by both parties.

Mr Mackenzie: It is obvious we have now seen a bill or suggested amendments—we have not got them yet—that in effect answer the complaints very strongly stated, almost threateningly stated, by the CMA. We have seen nothing in terms of the amendments that have been suggested by labour.

Mr Shea: It would appear that way.

Mr Fleet: I have a couple of areas for questions; one is just a clarification. You made a comment about concern for workers who are asked to come back to work after an injury and the possibility of reinjury. I am just wondering,

what is it that you currently advise your workers when they are in that situation?

Mr Shea: Our position had been that if an employee is injured at work, he should abide by the advice of his doctor. In other words, if somebody goes ahead and breaks a leg in the workplace, he should not be in the workplace with a cast on his leg endangering himself and other people in the workplace. He should stay at home until such time as he is fit and able to go back to work.

Mr Fleet: Are you saying that there are instances when companies are seeking people to come back to work contrary to medical advice? Is that the proposition?

Mr Shea: I think that I would say this. If you have company doctors, and the company goes ahead and says to a doctor that here Jerry Shea, for example, has a broken leg, the company would imply to the doctor, "All right, I can bring Jerry Shea in and sit him at a desk where he may be able to put tags on string." That is the way they would put it, that they have a job that he could do where he would not injure himself any further and would not pose a danger to someone else.

However, in reality, if that happens, then usually inside of a day or so they have him doing other duties that do change that status. If a doctor is presented that question by a company official or a company doctor, then he would say, "Yes, I would allow Jerry Shea to go back to work under those conditions," but the conditions change drastically inside of a couple of days.

Mr Fleet: Okay. Let me shift to something that has been a fairly fundamental issue that has come up before the committee in the days that we have been hearing people across the province, and something that you have touched on again, and that is the notion of the right to stop work. We have had evidence with respect to the issue of the right to refuse work. The evidence before the committee has been that relatively few of the business groups, in particular, have had many cases where there was what I would call a documented or specific reference to a frivolous or abusive exercise of the right to refuse work. It is not that there has been a total absence of it, but there have not been a lot of cases brought forth. But there have been some.

There was one brief that came from one of the union people that talked about the exercise of the right to stop work, and I believe the quote was from somebody in Sweden, which again referred to the fact that there were a few instances where the right to stop work there had been frivolously or improperly exercised.

We have also heard from business groups a concern not, for the most part, focused on the majority of circumstances where employees might have a right to stop work, but rather on the minority circumstance, presumably where the relationship between employees and an employer was not very good, for whatever reason. You might have the problem of a certified worker exercising the stop-work right improperly in the context, particularly, of an industrial process that is perhaps commonplace to the workplaces where your members are, as opposed to, say, the mining sector, where there have been some similar stop-work provisions negotiated, or at least partly negotiated.

In those circumstances, what we have heard on this committee is that those tend to be work circumstances where there are only a few people working and that the implications of stop-work involved generally a few people in an isolated location. It is a very different circumstance from an assembly line arrangement, where when one person stops work there is an awful lot of implication involved.

I am wondering if you could provide a little bit more assistance to the committee in providing meaningful advice—and I stress the word "meaningful"—about how we respond to the fears that employers have that sooner or later somebody in an improper circumstance will exercise that right, with safety not being the issue but the financial impact being dramatic.

Mr Shea: First off, I would say that I think the track record of organized labour and the present legislation that provides the right for a worker to go ahead and stop work, as you have stated, have shown the responsibility taken by organized labour and the employees in the factory, where it has not been utilized frivolously.

The other question would be, what would it matter whether there is a possibility of one person being injured or a group of people? The premise is still there that the possibility is distinct that an individual or a group of people could be injured by an unsafe operation. Whether it is one person or more people, I still think that right should be there.

We are talking about properly trained people when you are talking about having the right to shut an operation down. You are talking about people who are properly trained, who have been given training by this bipartite committee that we are talking about that should touch on most of these issues.

I think an enlightened person is a knowledgeable person. My feeling would be that the company's management has taken a position that is irresponsible in view of what has been the past history of the relationships, under the present legislation, even. I think it has shown that the workers have acted in a responsible manner and will continue to do so. Giving someone a right does not mean to say he is going to exercise it.

We have a global conflict going on right now about people who want the concept of freedom. They do not have it, but they want it. Once they get it, then a lot of that fear of not having it is taken away. I think that is what we are trying to say. Give us the right under a dual participation system to have the same powers as management will have, and I am sure that organized labour and their workers and the unorganized workers will use that power, if you want to call it that, in an expeditious manner and will show that workers are responsible and they are best able and more qualified to point out the unsafe situations that exist in the workplace, and they will endeavour to have them corrected properly. In my opinion, in my relationship with our organization, we have not had that many work refusals; we have had very few.

Mr Fleet: Do I have more time or are there other questions?

The Chair: If you leave time for Mr Dietsch.

Mr Fleet: All right. I will let him go first. If we have time, I will come back. Thank you for the answer. I certainly have more questions I would like to ask, but time is limited.

Mr Dietsch: I want to go back to the first question Mr Fleet was asking with respect to workers who are injured on the job site and then management brings them back in for light-duty work or work of a nature where they are able to handle it. I would like to know what your union has done to stop that from happening, or has your union agreed to bring workers in on light-duty work?

Mr Shea: In some cases, depending on the circumstances and the job that the employees are going to be operating. There are many times when you have to bring people back to work to try to get them back into the work stream. So on a reduced basis or a limited capacity, we have been in favour of it. There is nothing wrong with consultation, and if there is an agreement between the parties to bring someone in and he has a doctor's approval under the conditions as they are laid down, then there is nothing wrong with that. Our experience has been that where the

companies endeavour to circumvent the consultation process and bring people in on their own, we find that they tend to go ahead and abuse that system.

Mr Dietsch: I was curious. I am familiar with some of the instances where that happens. In most of those instances where it happens, there is some kind of agreement with respect to the union. You are quite right when you talk about the opportunity to get workers back into productive society, if you will, in terms of getting them feeling better about themselves, making a valuable contribution and those kinds of things. I guess I misunderstood your brief, because I thought you were saying that you did not want it to happen.

Mr Shea: No, I do not think we are saying that. We are saying that where it is a controlled situation and control can be exercised on bringing the people back on the basis under which they are coming back, we would not be objecting to that.

Mr Dietsch: I guess what we are talking about, more than that, is a joint participation and co-operation.

Mr Shea: What I was trying to point out was that the reasons why it has shown, in some cases, a drop in the number of cases being reported was as a result of the modified work, which tends to show a reduced amount of accidents.

Mr Dietsch: Let me ask you, in your opinion—and I guess you would have to reflect on your own particular work site—is this done in every case, in some cases? Is there any consultation? What happens in your particular work site?

Mr Shea: I am not in a work site right now, but we have some representatives here who might be able to address that problem. We do have one of the plants in the area. If I were able to call on a safety chairman, he could probably respond to you. He is sitting in the audience.

Mr Dietsch: You are like a manager of the union then.

Mr Shea: I am the head of the Canadian operation.

Mr Dietsch: I apologize for not knowing the importance which you hold.

The other question I would like to ask is in respect to the internal responsibility system, which you do not feel is working. Is it not working at all or are you saying that a stronger joint participation—of course one of the objectives of this particular bill is to increase joint participation and increase safety training. You

would support that aspect of the bill in terms of that happening for the IRS system.

Mr Shea: I think in our relationship to the IRS, we feel that when it comes to a question of push or shove, safety versus productivity, then the internal responsibility system tends to break down. We have documented cases of that in this brochure we gave you, where the ministry has had to come to plants where we feel we have had a very good relationship with our health and safety committees, but the ministry has had to come in and give directives to the company in order to get them to move off centre.

Mr Dietsch: Can you give me a ballpark idea with respect to how many times you have had to move them off centre and how many times it works? Is it a small percentage of time that you have to call the ministry in? Is it a large percentage? Is it half? What is it?

Mr Shea: I would say it would be a smaller portion, but it could be on issues. For example, one of the issues we have had to bring the ministry in to issue a directive to the company was on a question of WHMIS training in one of our facilities, which is a major situation. The ministry had to come in and direct the company to take more workplace site inspections. I am saying that these are some areas in which we have had to bring them in because of a lack, you might say, of participation of the company in these areas.

Mr Dietsch: So I can draw from that that it is working some of the time, but it needs some improvement. That is what you are saying.

Mr Shea: Definitely.

The Chair: We are out of time. Mr Shea, we thank you and your colleagues for coming to the committee.

The final presentation of the afternoon is from J. M. Schneider Inc. Mr O'Brien, welcome to the committee. The next 30 minutes are yours, or whatever part of them you wish to use.

J. M. SCHNEIDER INC

Mr O'Brien: I would like to take a few moments of your time to go over the presentation I have provided for you and perhaps answer any questions you may have. My intent is to talk basically about the dynamics of the legislation and how we feel about it. Please bear with me as we go through this report.

J. M. Schneider has been an employer in Ontario in the food processing industry since 1890. This year, we are celebrating our 100th anniversary and as a leader in the retail meat,

food service and grocery industry today, we take pride in our reputation for high-quality products and service.

We are also a member of the Grocery Products Manufacturers of Canada, known as GPMC, which is a national association representing more than 140 companies engaged in the manufacture of food, nonalcoholic beverages and an array of other national brand consumer items sold throughout many retail outlets in the country. In the food-processing sector alone, this industry accounts for 85,000 jobs in Ontario.

1700

To over 3,000 people in Ontario, J. M. Schneider is their workplace. We have many locations throughout the province. Seven locations in Ontario alone require health and safety committees that are operating at the present time. In particular, here in Kitchener we have a plant that employs over 2,000 employees. In the village of Ayr, southwest of here, we have approximately 80 employees. In Rexdale we have about 150 or so employees. We have a plant with about 50 employees in Mississauga. In Winchester, which is in Dundas county, we have about 150 employees in an operation, and in Millbank, which is in Perth county, we have about 25 to 30 employees. We also have locations in other provinces where we operate as well, which are plant sites where we have health and safety activity going on as well.

Our company policy on health and safety is to foster a safe and healthy work environment by the use of every reasonable precaution we can use and by the aggressive promotion of safe work practices. The purpose of our policy is to ensure that there is full support to all health and safety objectives throughout. We agree that improved worker education and training and the active involvement of all workplace parties are important factors in achieving the goal of having a safe and healthy work environment. From the social as well as the economic perspective, it serves all parties best.

In general, J. M. Schneider supports the philosophy encompassed in Bill 208 and, further, we support the direction of the suggested revisions by the minister. At the same time, however, we feel that perhaps further refinements could assist the bill in achieving the intended spirit of the legislation. I would like to address three of them: the stop-work provisions, the health and safety agency provision and the right-to-refuse-work provision.

On the stop-work provision: We are pleased that the Minister of Labour has recognized the

potential for workplace disruptions with this provision and has offered an alternative. We believe that providing unilateral rights to stop work erodes the partnership concept that is critical to achieving health and safety goals. We believe the strength of the existing health and safety legislation in Ontario has been those provisions that embrace the need for joint decisions, joint committees and joint accountability.

The minister's alternative, which draws the distinction between acceptable and unacceptable safety performers, would be a very difficult task to implement, we believe. The process of monitoring workplaces versus acceptable-unacceptable criteria and placing inspectors on work sites would be an enormous responsibility for the ministry on top of its current workload. We understand that in 1988 there were approximately 313 safety inspectors responsible for some 179,000 workplaces throughout the province.

J. M. Schneider believes that the stop-work provisions must require joint agreement to make the bill more effective. If certified worker representatives and the certified employer representatives cannot reach an agreement, they have the resources of the joint health and safety committee to call upon, and if necessary, a Ministry of Labour inspector could be called in to resolve any impasse. Individual employees, of course, would still have the right to refuse work, and would act upon that right based on recommendations from the certified representative and their own judgement. In this manner, adequate provisions are in place to protect against potentially hazardous practices. The need to allow unilateral stop-work is not required. To allay fears and concerns that the requirements of agreement may result in cases of consent being unreasonably withheld, we recommend that the Ministry of Labour inspectors be empowered to at least decertify a safety representative where it is clear that the authority to withhold consent was abused.

On the health and safety agency provision: As this agency is intended to provide critical support to the process of achieving health and safety goals, we believe that representation on the board of directors of the proposed agency should attempt to reflect the composition of Ontario's workforce. With approximately 63 per cent of the workforce made up of nonorganized workers, we note that this group is not represented on the agency under the provisions of Bill 208, and we recommend that efforts be made to attract directors from this large worker resource pool.

On the right to refuse unsafe work: Individual workers should continue, of course, to have the right to refuse unsafe work activity, and we support the minister's recommendation that the definition of unsafe activity include only work of immediate danger and not repetitive motion types of work. Workable solutions for discretionary situations should be dealt with by the joint health and safety committee.

In summary, J.M. Schneider supports the goals of providing a safe work environment for all workers in Ontario and supports the principle of shared responsibility to achieve that environment. We believe that Bill 208 requires revisions to the stop-work, health and safety agency and refusal for unsafe work provisions in order to be successful in achieving our goals.

We would like to advise the committee also that as a participant in the grocery product manufacturers association, it will also be presenting a report to this committee on February 15, and as indicated earlier, GPMC represents a significant number of workplace environments throughout the province and we in that association all share the same concerns regarding this bill.

Mr Carrothers: I am wondering if I could go back to your comments on the individual right to refuse unsafe work. We have had many people come before the committee and essentially question the effectiveness of that, at least of that standing alone, putting forward the situation where someone may refuse work he feels is unsafe and that those operating the plant, the management, will go to someone else, someone perhaps with less experience, someone perhaps very new on the job and get him to do it. The individual ends up taking on the work. He might not completely understand it and, in fact, put himself in an unsafe condition without knowing it. It was suggested that system needs to be buttressed. I wonder if you have any comment on that point of view.

Mr O'Brien: First of all, we do not have very many refusal-to-work situations to deal with. Most of the situations are handled before they become a refusal to work. That is based on many things. We think it is based on our culture, our values within our organization. Critical to that is communications, to listen, to understand where there is concern about a potential hazard. Very few get to a point of formal refusal to work, because they are handled.

That does not mean we do not have some. We have had some. We have ways and means to handle them through our health and safety

committees as well as the policies that we have for management within the organization; as well as the employees, the workers, communications or training that we provide them through induction; as well as safety booklets that say, "Don't do work that you feel is unsafe. Ask about it. Talk to your foreman or your supervisor who is involved in it."

Where we have situations that need to be dealt with on refusal-to-work situations, we make it a policy that if the work is deemed to be necessary to continue as a result of a refusal—the employee will not continue—we will not offer the job to anyone else without clearly making him aware that there was a refusal, having the health and safety worker representative for the area present and being able to counsel the individual on that before any activity is picked up.

Mr Carrothers: Maybe you are making the very point then, because this legislation is perhaps designed to deal with workplaces that perhaps are not as fairminded as yours. The implication of what we have heard is that safety should perhaps become something quite important, something that is front and centre, something where you can continually question the practices of the plant to see if you can always make them better and better; something that I am sure your management does in terms of its own marketing policies. I mean, you do not stand still, you keep trying to get better. It is the only way to stay competitive.

As an example, we heard something earlier today about a plant situation. A large vat of very hot water, I think it was a cooling vat, had existed without railings around it for 17 years, I think was the number.

1710

Mr Fleet: Fifteen.

Mr Carrothers: Fifteen years; a long time, anyway. Unfortunately, one day someone fell in. I mean, nothing had really gone wrong and it may be that that workplace was one with quite a good record, but without a mechanism where one was continually challenging what was going on, continually perhaps asking how one could improve safety, sometimes things slip through or do not get done.

Back to this individual right to refuse work, you yourself have indicated that in your plant you will bring others in before you ask someone else to take on the job. In other words, if there is a disagreement, it becomes almost a collective activity. That may not be the same in other workplaces, so one of the things proposed by this legislation is to bring in things like certified

workers and so on and provide that backup perhaps more as a right to deal with the situation where it is not taking place, as it does not in all workplaces. I am just wondering why you would feel that is such a negative and feel that that type of improvement would not provide safer workplaces across the province. It may be that your particular workplace will not even be affected because of the fact that your practices are already very good. But in other workplaces that are not as good, we could bring them up to the level you have. I am wondering why you would feel that was such a negative.

Mr O'Brien: First of all, I do not object to having more training for workers on health and safety. To recognize that training through a certification program and have people who are focused on that—there is certainly nothing wrong with it. We support that premise completely. My concern is one based on undermining or eroding the joint, or partnership, agreement. We think the bill potentially does not support what the act itself was meant to accomplish.

I will give you an example of the partnership we have in joint decisions that we embrace at our work sites. At one of our larger work sites, the health and safety committee is made up of 20 people; 14 of those people are workers and six are from management or the company side. That committee sets its own business plans, has its own capital budget to prioritize where the money will be spent, and if a railing is needed in an area, it does not have to ask permission; it puts in a railing.

This is joint co-operation, this is joint decision-making and joint accountability. They deal with it and are able to function because of that ability to have co-operation. That is what we think would be undermined in having a unilateral right to deal with subjects that could be discretionary.

Mr Mackenzie: I am curious as to why you would be willing to trust a committee that has 14 workers on it and six management people in terms of a budget and running the safety operation of one of your plants and yet you would have difficulty with the right to refuse that is in this particular legislation. I am wondering if you are not overstating your case when you raise the concerns about the right to refuse, because the same arguments were made back when Bill 70 was coming in. As a matter of fact, they were made very strongly. I was around at the time, and it did not turn out to be an accurate assessment of what was going to happen.

You have not had too many refusals in your own case and you even give us an example of a committee that has a majority of workers on it. Why the reservation about the right to refuse that is in this legislation?

Mr O'Brien: The premise of our committee into what makes it effective is the ability to work together. We would not want to create situations that may be a perceived or an actual conflict in ability to use power. As they are working together and they need co-operation, therefore we get effective work from the committee.

I should mention that we do not hand over safety responsibility to this committee. We accept safety responsibility in all aspects from all positions. The committee is not responsible for safety; it is there to assist in providing a workplace that is safe and providing focused attention to deal with areas, to jointly help others, including all of management and all of workers in fulfilling all of our responsibilities for safety.

Mr Mackenzie: You referred briefly to the number of safety inspectors and the difficulty in their taking on the additional responsibility of monitoring some of the poorer workplaces. I am wondering if you think it would be possible to hire enough safety inspectors in the province of Ontario to begin to do the job if we do not put in place a more effective internal responsibility system.

Mr O'Brien: I really cannot comment on the budget the government has in order to hire people. In private industry we are limited in the number of people we can hire, so I am not familiar with that type of a process. As far as a needs basis, though, if the need is created, and especially about a subject as important as the health and safety of the workers who are involved, I imagine that things would be made available in order to fulfil the need. I believe the need to have a work environment that is safe can be filled by co-operation that is evolved from joint decision-making, as we have proven in our examples.

Mr Mackenzie: We have had disputes in a couple of the last hearings over the kinds of priorities we have set in terms of health and safety, and I am wondering if it surprises you to find that as of 1 February—the current information from the Ministry of Labour—we have 284 health and safety inspectors, plus 19 openings that are in the process of being filled, which makes 303. But when it comes to conservation officers, on the same 1 February 1990 date, we have 251, plus 499 deputy conservation officers,

who have literally the same authority, which makes 750—more than two to one.

Mr O'Brien: That is interesting.

Mr Riddell: As I sit and listen to these presentations day in and day out, it is obvious that there are good workplaces and not-so-good workplaces from the standpoint of occupational health and safety. Included in the good workplaces there is apparently the right now, on the part of safety representatives, to stop work. I suppose this has been negotiated in their collective bargaining; I do not know, but I think we just heard today in one presentation that a safety representative now has the authority to stop work if that person feels the work area is unsafe for the worker.

I guess what I am asking is, what is included in this bill that is not already being employed by the good employers? I guess I do not understand the fear that comes with the authority given to a certified representative to stop work, if it is already being employed in the good work places, and we have not heard yet that this has been abused.

I guess what I am having difficulty in understanding is, what is in Bill 208 that a good workplace is not already employing?

Mr O'Brien: We do not have a perfect workplace. We do not reach unanimous agreement on everything we do. We do have 20 people on a health and safety committee who do not always agree with everything. There is a consensus that emerges and the committee is very effective in terms of how it deals with its objectives.

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We have had occasions where we have had to ask for people to help us make a decision. We have reached an impasse in a few cases. I asked one of the chairpersons of one of the committees before I came here when the last time was that we had to call in an inspector, and he mentioned that it was in the early 1980s, because they simply reached an impasse where they were not able to decide. Neither the worker nor management could be dissuaded from their positions.

So we have asked for help, and there is nothing wrong with that. What we are saying is that circumstances may occur where we still may have to go to the ministry and ask for help. But we feel that Bill 208, with the stop-work provisions and the unilateral right to stop work, could put us in a position where we do not have the effectiveness that we need in our health and safety programs. It could erode the partnership,

rather than embrace and enhance the partnership that is there.

Mr Riddell: I guess I am having a little difficulty understanding that. Would you sooner see good provincial safety legislation or would you rather see occupational health and safety become one of the first items on a collective bargaining agreement which could well become a strike issue?

So you have got one of two alternatives: good provincial legislation that gives the workers the protection they need, or having this become a collective bargaining agreement item that could well be a strike issue.

Mr Fleet: I am glad it is not a leading question.

Mr O'Brien: There is no doubt that I would like to see good provincial legislation. Definitely, I would like to see good federal legislation; I would like to see good municipal legislation.

What I would like to see happen in terms of a bargaining agreement, I cannot answer. That is not my realm to deal with; I am here to deal with situations that are not adversarial. I am here to deal with situations to help improve the environment to protect safety of the workers within it. I do not really think I can answer your question.

Mr Riddell: I well recall the days, and Bob Mackenzie does too, before we had province-wide bargaining and the type of thing that was going on in the construction industry where there was this leap-frogging. Believe me, it was something that management did not like and it was certainly something labour did not particularly like.

If we do not come in with good legislation that will give the workers the kind of safety they need—and I think we still have a ways to go to provide the safety that workers need in this province—then we could well be back to that leap-frogging type of situation and a situation where it is going to become a very major item in collective bargaining, which could well lead to strikes.

Bill 208, it would appear to me from the presentations that we have been getting, is being employed to a large extent already in the good workplaces; particularly when I hear there are workplaces where certified safety representatives have the authority to stop work, it has not been abused any more than the right to refuse work has been abused, and we have not heard that has been abused.

So I am wondering wherein lies the fear on the part of employers with what is contained in Bill

208. I have heard this business of frivolous activities on the part of workers. Do you not feel that workers are responsible people; that they go to work with the idea of doing a good day's work to make the kind of income they have to make to fend for their families and what have you, and that they are not going to work with the idea that they are going to look for ways of shutting the place down? Wherein lies the fear on the part of employers?

Mr O'Brien: The human being, the human person, the human animal, is not a perfect being. Our decisions are subject to many things that are relative to us. As I was walking in from my car, I decided not to wear my galoshes. I think it was a foolish decision because I ended up slipping coming across the boulevard and I saw visions of a fractured skull as I was catching my balance. All decisions are not perfect. We expect some decisions to be perhaps hasty. I made a hasty one in choosing what I was going to do.

What we are saying is that given counsel, given an opportunity for counsel from the other certified representative, given an opportunity for counsel from the health and safety committee that is already in place and working well in our organization, then why should there be a need to have a unilateral stop-work provision?

Mr Riddell: I suppose because we have some bad workplaces, and I guess really what it boils down to is that laws are made because there are those people who choose not to abide by them. If all people decided to live the almost perfect life, I guess we would not need laws and all the legislation we have, but there are some bad workplaces and I guess somehow we have to correct that.

Mr O'Brien: Perhaps the 303 positions of health and safety inspectors should be concentrating on those areas then.

Mr Mackenzie: We have not had the best record of success in getting orders enforced. There are as many 600 outstanding in some companies. That resulted in the walkout at McDonnell Douglas. That is one example alone.

The Chair: Mr Riddell, would you let Mr Dietsch finish off the final question?

Mr Riddell: I would be glad to.

Mr Mackenzie: He does not want it to end on your comments.

Mr Dietsch: Not today. None the less, Mr O'Brien, I would not want you to be confused by some of the facts that have been given to you relative to conservation officers versus inspectors. My information tells me there are 266

conservation officers with 50 managers and there are 306 inspectors of the workplaces in varying areas, which in fact happens to be a 30 per cent increase over 1985.

I want to ask you a question in relationship to your work provisions in terms of—

Mr Mackenzie: We will check the figures out. If we can't agree, we will submit it to binding arbitration.

Mr Dietsch: I realize we are being interrupted, but none the less, How long have you had your stop-work provisions, your joint committee provisions, in your workplace?

Mr O'Brien: Let's define what you mean by "stop-work provisions." We have health and safety committees—

Mr Dietsch: Your joint agreement for stopping unsafe work. As I understood by your presentation, you have that currently, do you not?

Mr O'Brien: What I was saying was that we have the individual right to stop work. We do call in the health and safety worker representative for the area that is responsible for it to help resolve the situation before anybody else is asked to do that work. Management makes a decision whether or not they feel it is safe as well. Before anybody is asked to do something that they deem is safe, the worker representative is allowed to counsel anyone else who is asked to do the work or volunteers to do the work.

Mr Dietsch: Have you had instances in your workplace where there have been refusals and you have had to call in the Ministry of Labour, or have you been able to solve them with your joint committee approach?

Mr O'Brien: I mentioned earlier that I asked one of the representatives from one of our plants the last time they recall one coming in and they said it was early 1980s; about 10 years ago. That was in our plant in Dundas county. In another case, I asked another representative of one of the committees and they said they cannot recall the last one; it was in perhaps the mid-1980s.

The Chair: We thank you for your presentation and for the interesting exchange with members of the committee. We appreciate it.

That is the last presentation of the day. The bus for committee members will be leaving in about 15 minutes at the front of the room. I am sure I speak on behalf of committee members when I say thank you to people who came out and took part in the process today and showed us your concern for this legislation. Thank you very much.

A special word to the Hansard people who coped with the difficult sound system and fixed it up for this afternoon. We appreciate that. We are adjourned until 9 am tomorrow morning in London.

The committee adjourned at 1730.

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Gosen, Don, Chair, Contractors Committee and Past President

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